Also, papers to accompany House bill granting an increase of pension to John W. Brooks—to the Committee on Invalid Pensions.

By Mr. DALZELL: Papers to accompany House bill granting an increase of pension to Andrew Ivory—to the Committee on Invalid Pensions.

By Mr. EVANS: Paper to accompany House bill 15820, granting an increase of pension to James R. Werts—to the Committee on Invalid Pensions.

Also, paper to accompany House bill 15823, granting a pension to Andrew Dibert—to the Committee on Invalid Pensions.

By Mr. GREENE of Massachusetts: Resolutions of the Massachusetts State Board of Trade for the enactment of liberal laws for the district of Alaska, to open the land to settlement, etc.—to the Committee on the Territories.

Also, resolutions of the Massachusetts State Board of Trade for an educational test in the restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. KEHOE: Petition of the Board of Trade of Maysville, Ky., relative to Alaskan legislation—to the Committee on Territories.

Also, petition of sundry citizens of Maysville, Ky., for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. KETCHAM: Petition of citizens of Chatham, N. Y., in favor of an amendment to the Constitution defining legal marriage to be monogamic, etc.—to the Committee on the Judiciary.

By Mr. MERCER: Papers to accompany House bill 15847, granting a pension to Thomas Cosgrove—to the Committee on Invalid Pensions.

By Mr. SHOWALTER: Papers to accompany House bill granting a pension to Enos M. McDonald—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting a pension to John McKeever—to the Committee on Invalid Pensions.

Also, paper to accompany House bill granting a pension to Joseph Grennue—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: Paper to accompany House bill granting a pension to David W. West—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting a pension to John Foruts—to the Committee on Invalid Pensions.

By Mr. WOODS: Papers to accompany House bill granting an increase of pension to James A. Hale—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting an increase of pension to George N. McMurry—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *December 11, 1902.*

Prayer by Rev. J. W. DUFFEY, D. D., of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

LEASING OF UNOCCUPIED GOVERNMENT PROPERTY.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, a report relative to the leasing for a period not exceeding five years of certain unoccupied and unproductive property of the United States under his control, for the leasing of which there is no authority under existing law, etc.; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PUBLIC FOREST RESERVATIONS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting a draft of a proposed bill providing for the sale of timber and other material growing or being on public forest reservations, and for the renting or leasing of lands therein; which, with the accompanying paper, was referred to the Committee on Forest Reservations and the Protection of Game, and ordered to be printed.

CHARLES S. LOBDELL.

The PRESIDENT pro tempore laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of the findings filed by the court in the cause of Charles S. Lobdell *v.* The United States; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

FRENCH SPOLIATION CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Conrad*, John Osborn, master; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Hope*, Ephraim Hutchins, master; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 4083) for the relief of Surg. John F. Bransford, United States Navy.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 12240) granting to Nellie E. H. Heen the south half of the northwest quarter and lot 4 of section 2 and lot 1 of section 3, in township 154 north, of range 101 west, in the State of North Dakota; and

A bill (H. R. 15155) to refund the duties paid on merchandise brought into the United States from Porto Rico between April 11, 1899, and May 1, 1900, and also on merchandise brought into the United States from the Philippine Islands between April 11, 1899, and March 8, 1902, and for other purposes.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 15794) to amend section 20 of an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890; and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. PLATT of New York. I present a petition of the Chamber of Commerce of New York, N. Y., represented by Mr. Morris K. Jessup, president, praying for the ratification of a reciprocal treaty with the Government of France. The petition is very short, and I ask that it may be read.

There being no objection, the petition was read and ordered to lie on the table, as follows:

[Chamber of Commerce of the State of New York, founded A. D. 1768.]

To the honorable Senate and House of Representatives of the United States in Congress assembled:

May it please your honorable body, the Chamber of Commerce of the State of New York respectfully represents:

That the extension of our export trade with foreign countries is now a pressing question, as enlarged markets for the products of our manufacturers, of our agricultural and other industries, have become most necessary for our commercial well-being;

That to secure such enlarged markets for our products, and to obtain the advantages that we seek for our own trade, we must depart from our policy of exclusiveness, and must offer certain reciprocal concessions in our duties on imports to those nations whose trade we desire to cultivate.

That among the treaties negotiated by our Government in the furtherance of this enlightened commercial policy the reciprocity convention with the Republic of France offers concessions of the greatest value to the export trade of the United States, and will open to our trade and manufactures a large and remunerative field.

That under the terms of this treaty the reductions from the French maximum to the minimum tariff average about 48 per cent, including oils, and about 26 per cent excluding them, and apply to the whole French tariff list, excluding 19 articles, whereas the reductions conceded on the part of the United States average only 6⅞ per cent, and apply to only 126 numbers out of 463 dutiable items, showing the greater advantage to be on our side.

That the important concessions to our great export trade obtained by our Government through the negotiation of this convention far outweigh the apprehension of possible slight injury to any isolated special interest.

Your memorialists respectfully urge upon your honorable body the early and favorable consideration of this most important subject; and your memorialists will ever pray.

[SEAL.]

MORRIS K. JESSUP, *President.*
GEO. WILSON, *Secretary.*

NEW YORK, *December 8, 1902.*

Mr. CULLOM presented a petition of the congregation of the Parks Chapel Methodist Episcopal Church, of Urbana, Ill., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all immigrant stations; which was ordered to lie on the table.

He also presented a petition of the Live Stock Exchange of the National Stock Yards of Illinois, praying for the enactment of legislation amending section 4386, Revised Statutes, regulating the shipping of cattle; which was referred to the Committee on Interstate Commerce.

Mr. FOSTER of Washington presented a petition of sundry business firms of Seattle, Wash., praying for the enactment of legislation making tea in bond free after January 1, 1903; which was referred to the Committee on Finance.

He also presented a petition of the Chamber of Commerce and Board of Trade of Tacoma, Wash., praying for the enactment of

legislation for the district of Alaska, to open the land to settlement and the mineral wealth of that district to the industry of the United States; which was referred to the Committee on Territories.

Mr. NELSON presented a petition of sundry citizens of Worthington and Brewster, in the State of Minnesota, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. JONES of Arkansas presented a memorial of the Five Civilized Tribes convention of Eufaula, Ind. T., remonstrating against the enactment of legislation contemplating the annexation of the Indian Territory, or any part thereof, to the Territory of Oklahoma or to any State; which was ordered to lie on the table.

Mr. QUAY. I present resolutions of the Five Civilized Tribes of the Indian Territory, adopted at a convention held at Eufaula, in the Indian Territory, remonstrating against the passage of the bill to attach the Indian Territory to Oklahoma. This organization is in the nature of a Territorial government, and I ask that the resolutions be read.

There being no objection, the resolutions were read, and ordered to lie on the table, as follows:

McALESTER, IND. T., *December 8, 1902.*

Hon. MATTHEW S. QUAY,
Senate Chamber, Washington, D. C.

SIR: By direction of the Hon. P. Porter, chairman of the Five Civilized Tribes convention, held at Eufaula, Ind. T., November 28 last, I hand you herewith a certified copy of the resolutions adopted at the said convention, and would respectfully request that you present the same to the Senate, so that the wishes of the Indians in the Indian Territory with reference to statehood may be known.

Very respectfully,

HENRY ANSLEY,
Secretary Five Civilized Tribes Convention.

Whereas the Five Civilized Tribes of the Indian Territory have by agreements made and entered into with the United States provided for the dissolution of their tribal governments; and

Whereas the changed conditions brought about by such agreements require a complete revolution in our land tenure and new laws and usages unknown to the Indians composing the Five Tribes of the Indian Territory, which conditions will require time for the new citizen to adapt himself to the changed order of things; and

Whereas these changes were apparent to the contracting parties at the time of the making of the said agreements, which is evidenced by the fact that a separate political organization was provided for the Indian Territory and the period for dissolution as said tribal governments was fixed at March 4, 1906; and

Whereas citizens of the United States, and not Indians, now resident in and upon the lands of the Five Tribes, are making, by petition and lobby influence, efforts to induce the Congress of the United States to ignore the spirit and letter of agreements by placing the Indian Territory under the laws of Oklahoma Territory; failing in that, to organize a regular United States Territory out of the present judicial organization known as the Indian Territory, either of which propositions would delay the work of the Government as now organized and satisfactorily proceeding under the direction of the Secretary of the Interior in our Territory for the fulfillment of the agreements referred to: Now, therefore, be it

Resolved, By the duly authorized representatives of the Five Civilized Tribes in convention assembled at Eufaula, Ind. T., November 28, 1902:

That we affirm our confidence in the purpose of the United States Government to faithfully discharge the obligation she has assumed in her treaties with the Five Civilized Tribes in the Indian Territory.

We are opposed to and protest against any legislation by Congress that contemplates the annexation of the Indian Territory, or any part thereof, to the Territory of Oklahoma or to any State, and we insist upon our tribal government continuing intact and our tribal conditions remaining unchanged until March 4, 1906, at which time, should Congress deem it wise to change the present form of government in Indian Territory, we ask that a State be formed out of the territory composing the Indian Territory, without the preliminary steps of a Territorial form of government.

The authority and supervision of the Department of the Interior over Indian affairs in the Indian Territory and the duties imposed on the Dawes Commission by such authority in the distribution of the land belonging to the Five Civilized Tribes are sufficient for the present demand of government and satisfactory to the owner of the soil.

It is incumbent on us as self-governing people to propose a State form of government and take part in the establishment of the same for the country owned by us, to take effect at the dissolution of tribal government in 1906.

We most earnestly protest against the misrepresentations found in the petitions presented by the people assembling in conventions at different places in the Indian Territory purporting to represent the wishes of the Indian Territory, firmly believing as we do that they represent no part of the Indian population and a very small part of the white population of the Indian Territory in so far as they represent the people of the Indian Territory as asking for Territorial form of government or statehood jointly with Oklahoma.

Delegates present.—Creek Nation: P. Porter, principal chief; Roley McIntosh, John R. Goat, Cheesie McIntosh, Alex. A. Davis, A. P. McKellop. Cherokee Nation: Wash Swimmer, A. L. Lacie, George Sanders, J. G. Schrimsher, L. B. Bell. Choctaw Nation: H. P. Ward, L. C. Leflore, Hampton Tucker, Henry Ansley.

I hereby certify that the above and foregoing is a true and correct copy of the resolutions adopted by the Five Civilized Tribes' convention, held at Eufaula, in Creek Nation, Ind. T., November 23, 1902.

HENRY ANSLEY,
Secretary of said Convention.

Mr. QUAY presented sundry papers to accompany the bill (S. 6512) to extend the jurisdiction of the United States courts, and for other purposes; which were referred to the Committee on the Judiciary.

Mr. FORAKER. I present sundry letters, telegrams, and petitions from various individuals and firms in the State of Ohio, favoring the enactment of legislation to reduce the tax on distilled spirits, and also to extend the outage allowance so as to include all liquors in bond. I ask that the petitions be referred to the Committee on Finance, and that the names of the several senders of the telegrams and letters be printed in the RECORD.

The PRESIDENT pro tempore. That is contrary to the usual practice.

Mr. FORAKER. I mean the persons from whom they come. I think that has been done.

The PRESIDENT pro tempore. Did the Senator request that the telegrams be printed?

Mr. FORAKER. No; the names.

The PRESIDENT pro tempore. There is a general rule that where petitions are printed in the RECORD the names of the petitioners shall not be printed. The rule, however, would not apply to simply one signature.

Mr. FORAKER. I know that is the general rule, and therefore I made the request.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio?

There being no objection, the petitions were referred to the Committee on Finance and the names ordered to be printed in the RECORD, as follows:

The Hauser Brenner & Fath Company, of Cincinnati, Ohio; Henry Tecklenburg, of Loramie, Ohio; T. W. Voss & Co., of Cincinnati, Ohio; I. Levi & Co., of Portsmouth, Ohio; The Marietta Distillery Company, of Marietta, Ohio; W. W. Lesher, of Pomeroy, Ohio; The Henderson Lithographing Company, of Cincinnati, Ohio; Ferdinand Westheimer & Sons, of Cincinnati, Ohio; The Beech Hill Distilling Company, of Cincinnati, Ohio; V. E. Shields & Co., of Cincinnati, Ohio; The Standard Distilling and Distributing Company, of Cincinnati, Ohio; The Duroy & Haine Company, of Sandusky, Ohio; Mihalovitch, Fletcher & Co., of Cincinnati, Ohio; Ferdinand Westheimer & Sons, of Cincinnati, Ohio; The Edgewood Distilling Company, of Cincinnati, Ohio; H. Rosenthal, of Cincinnati, Ohio; Mayer Brothers, of Cincinnati, Ohio; The G. & B. Gerdes Company, of Cincinnati, Ohio; Fleischmann & Co., of Cincinnati, Ohio; Klein Brothers, of Cincinnati, Ohio; Joseph Silverman & Co., of Cincinnati, Ohio; Mihavritch Flocher & Co., of Cincinnati, Ohio; The Star Distilling Company, of Cincinnati, Ohio; Walter Frieberg, of Cincinnati, Ohio; The Diamond Distillery Company, of Cincinnati, Ohio; Sunny Side Distilling Company, of Cincinnati, Ohio; J. & A. Freibery, of Cincinnati, Ohio; The Hoffheimer Brothers Company, of Cincinnati, Ohio; Levi & Ottenheimer, of Cincinnati, Ohio; The Old 76 Distilling Company, of Cincinnati, Ohio; The Mountain Distilling Company, of Cincinnati, Ohio; Freiberg & Workum, of Cincinnati, Ohio; Ullman Einstein & Co., of Cleveland, Ohio; The Clifton Distilling Company, of Cincinnati, Ohio; C. Hossfield & Son, of Hamilton, Ohio; Fleischmann & Co., of Cincinnati, Ohio; Rheinstrom, Bellman, Johnson & Co., of Cincinnati, Ohio; E. Bloch & Co., of Cleveland, Ohio; Isaac Winkler & Bro., of Cincinnati, Ohio; The Union Distilling Company, of Cincinnati, Ohio; The James Walsh Company, of Cincinnati, Ohio; Franc Heyn & Co., of Toledo, Ohio; Joseph A. Magnus & Co., of Cincinnati, Ohio; H. W. Avier & Bro., of Cincinnati, Ohio; L. Kahn & Co., of Cleveland, Ohio; Fred Rauh & Co., of Cincinnati, Ohio; S. Kuhn & Sons, of Cincinnati, Ohio; A. C. Kaplan, of Cincinnati, Ohio; H. Rosenthal & Sons, of Cincinnati, Ohio; The Turner Looker Company, of Cincinnati, Ohio; William Edwards & Co., of Cleveland, Ohio; The McCart Christy Company, of Cleveland, Ohio; William C. Biles & Co., of Cincinnati, Ohio; Guggenheim Brothers, of Cleveland, Ohio; Kaufmann, Baer & Co., of Cincinnati, Ohio; Strauss, Pritz & Co., of Cincinnati, Ohio; The Weidman Company, of Cleveland, Ohio; A. E. Clarkson & Sons, of Cincinnati, Ohio; J. Frager & Co., of Cincinnati, Ohio; The Kayser & Hegner Company, of Cincinnati, Ohio; J. Debard & Co., of Cincinnati, Ohio, and J. Michelson & Bros., of Cincinnati, Ohio.

Mr. HOAR presented a petition of sundry ex-Union soldiers of Massachusetts, praying for the enactment of legislation to increase the pensions of soldiers and sailors who lost limbs in the service; which was referred to the Committee on Pensions.

He also presented a petition of the Selectmen of Winthrop, Mass., praying for the enactment of legislation to increase the salaries of letter carriers; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Second Corps Cadets of Salem, Mass., remonstrating against the passage of the so-called Dick bill, to promote the efficiency of the militia, and praying for the adoption of certain amendments thereto; which was referred to the Committee on Military Affairs.

Mr. DEPEW presented a petition of the Presbyterian Ministers' Association of New York, praying for the enactment of legislation to restrict immigration; which was ordered to lie on the table.

Mr. COCKRELL presented the petition of Adolph Lippman, of Maryville, Mo., praying for the passage of House bills 178 and 179, relative to a reduction of the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. DOLLIVER presented sundry papers to accompany the bill (S. 6351) granting a pension to Ira K. Eaton; which were referred to the Committee on Pensions.

He also presented a petition of the Presbytery of Dubuque, Iowa, praying for the establishment of a laboratory for the study of criminals, etc.; which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Manning and Mahaska County, in the State of Iowa, praying for the enactment of legislation providing for a reduction of the tax on distilled liquors; which were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. CULLOM, from the Committee on Foreign Relations, to whom was referred the bill (H. R. 11576) granting permission to Capt. B. H. McCalla and others to accept presents and decorations tendered to them by the Emperor of Germany and others, reported it with an amendment.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 15445) to authorize the construction of a bridge across the Savannah River at Sand Bar Ferry, below the city of Augusta, Ga., reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. 134) to provide for the refitting of the revenue cutter *Fessenden*, submitted an adverse report thereon, which was agreed to; and the joint resolution was postponed indefinitely.

Mr. BERRY subsequently said: I reported a few moments ago Senate joint resolution 134, and it was indefinitely postponed. At the request of the Senator from Michigan [Mr. BURROWS] I should like to have the order indefinitely postponing the joint resolution reconsidered and the joint resolution placed upon the Calendar with the adverse report. The Senator from Michigan desires to look into the matter, and I told him that I would make a motion to reconsider the order indefinitely postponing the joint resolution.

Mr. BURROWS. I hope that will be done.

The PRESIDENT pro tempore. If there be no objection, the vote by which the adverse report on Senate joint resolution 134 was agreed to and the joint resolution indefinitely postponed will be reconsidered, and on the request of the Senator from Arkansas the joint resolution will be placed on the Calendar with the adverse report.

Mr. MARTIN, from the Committee on Commerce, to whom was referred the bill (S. 6231) authorizing Robert A. Chapman, of Alabama, his associates and assigns, to use the waters of the Coosa River, in Alabama, for the purpose of generating electricity, reported it with amendments, and submitted a report thereon.

Mr. PETTUS, from the Committee on Military Affairs, to whom was referred the bill (S. 5891) to authorize the President to appoint Brig. Gen. H. C. Merriam to the grade of major-general in the United States Army on the retired list, reported it with an amendment, and submitted a report thereon.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. 10095) for the relief of Levi L. Reed, reported it with an amendment, and submitted a report thereon.

Mr. MALLORY, from the Committee on Commerce, to whom was referred the bill (H. R. 14801) to make Wilmington, N. C., a port through which merchandise may be imported for transportation without appraisement, reported it without amendment.

Mr. FOSTER of Louisiana, from the Committee on Claims, to whom was referred the bill (H. R. 4471) for the relief of James M. Chisham, reported it without amendment.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (S. 6228) to establish Portal, N. Dak., a subport of entry and extend thereto the privileges of the first section of the act approved June 10, 1880, reported it without amendment, and submitted a report thereon.

OFFICE RENT AT CONSULATES.

Mr. CULLOM. I am directed by the Committee on Foreign Relations, to whom was referred the bill (S. 6447) to amend section 1706, Revised Statutes, relating to consuls, to report it favorably without amendment, and as it is a very short measure, and I think there will be no objection to it, I ask that it be considered now.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 1706 of the Revised Statutes so as to read:

SEC. 1706. The President may allow consuls-general, consuls, and commercial agents who are not allowed to trade actual expenses of office rent, not to exceed in any case $1,800 per annum, whenever he shall think there is sufficient reason therefor.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REFUND OF TONNAGE TAXES.

Mr. NELSON. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6439) for the refund of certain tonnage taxes, to report it back favorably without amendment, and I ask for its immediate consideration.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to refund additional tonnage taxes, at the rate of $1 per ton, amounting to $7,352, heretofore levied on the steamers *Santiago de Cuba*, *Santiago*, *Cienfuegos*, and *Olinda* on entry at New York from Cuban ports.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SIMMONS introduced a bill (S. 6516) providing for an additional circuit judge in the fourth judicial circuit; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MARTIN introduced a bill (S. 6517) to provide for rebuilding the Aqueduct Bridge, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 6518) for the relief of the personal representatives of Sewell B. Corbett, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6519) for the relief of the Free and Accepted Order of Masons in the town of Keysville, Charlotte County, Va.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6520) granting a pension to Maria Elizabeth Horner; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LODGE introduced a bill (S. 6521) granting a pension to Mary B. Coolidge; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT of New York introduced a bill (S. 6522) granting a pension to Elise Sigel; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FAIRBANKS introduced a bill (S. 6523) granting an increase of pension to James P. Wallace; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. SIMON introduced a bill (S. 6524) granting an increase of pension to John M. Drake; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 6525) to amend an act entitled "An act to incorporate the Masonic Mutual Relief Association of the District of Columbia;" which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 6526) granting an increase of pension to Orin T. Fall; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 6527) for the relief of Parmenas Taylor Turnley; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

He also introduced a bill (S. 6528) for the relief of M. C. Kerth; which was read twice by its title, and referred to the Committee on Military Affairs.

He also (by request) introduced a bill (S. 6529) for the relief of Herrera's Nephews and Gallego, Messa & Co.; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. BURTON introduced a bill (S. 6530) granting an increase of pension to Austin L. Tapliff; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6531) to correct the military record of John Minster; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. COCKRELL introduced a bill (S. 6532) granting an increase of pension to Asia Burgess; which was read twice by its title.

Mr. COCKRELL. To accompany the bill I present the petition for an increase of pension of Asia Burgess, soldier of the Mexican war, now pensioned at $12 per month, together with the affidavits of W. F. Perry and George L. Sherman and that of Dr. Joseph Mather. I move that the bill and accompanying papers be referred to the Committee on Pensions.

The motion was agreed to.

Mr. HOAR introduced a bill (S. 6533) granting a pension to Thomas O'Connor; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6534) providing for the construction of a vessel of the first class for the Revenue-Cutter Service, to be stationed with headquarters at Honolulu, Hawaii; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6535) providing for the construction of light-house and fog-signal stations in Alaskan waters; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6536) providing for the construction of a tender for the Twelfth light-house district; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6537) providing for rank and pay of certain retired officers of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also introduced a bill (S. 6538) providing for the construction of an oil house on Yerba Buena Island, California; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. TELLER introduced a bill (S. 6539) for the relief of Mary B. Spencer, administratrix of Albert G. Boone, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6540) granting an increase of pension to George W. Richardson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MASON introduced a bill (S. 6541) granting a pension to Eleanor Gregory; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FRYE introduced a bill (S. 6542) to provide for the construction of a revenue cutter of the first class for service on the coast of Maine; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. KITTREDGE introduced a bill (S. 6543) granting an increase of Pension to David C. Morgan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BAILEY introduced a bill (S. 6544) to establish a permanent military camp ground in the vicinity of Fort Sam Houston, Department of Texas, in the State of Texas; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DOLLIVER introduced a bill (S. 6545) granting an increase of pension to John Weaver; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6546) granting an increase of pension to Peter Peterson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MASON introduced a joint resolution (S. R. 143) for the establishment of a military sanitarium at Fort Bayard, N. Mex.; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. LODGE submitted an amendment proposing to appropriate $3,000 for preparing and reprinting a new edition of the Consular Regulations, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

EUGENE F. HARDING.

On motion of Mr. HARRIS, it was

Ordered, That Eugene F. Harding have leave to withdraw his petition and papers from the files of the Senate, there having been no adverse report; the same being in connection with Senate bill No. 3163, first session Fifty-seventh Congress, now pending before the Committee on Pensions of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. 12240) granting to Nellie Ett Heen the south half of the northwest quarter, and lot 4 of section 2 and lot 1 of section 3, in township 154 north of range 101 west, in the State of North Dakota, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. 15155) to refund the amount of duties paid on merchandise brought into the United States from Porto Rico between April 11, 1899, and May 1, 1900, and also on merchandise brought into the United States from the Philippine Islands between April 11, 1899, and March 8, 1902, and for other purposes, was read twice by its title, and referred to the Committee on Pacific Islands and Porto Rico.

ANTHRACITE COAL STRIKE COMMISSION.

Mr. ALLISON. I ask unanimous consent that the Senate proceed to the consideration of House bill 15372, the bill making appropriations for the Anthracite Coal Arbitration Commission.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15372) to provide for the payment of the expenses and compensation of the Anthracite Coal Strike Commission appointed by the President of the United States at the request of certain coal operators and miners, which had been reported from the Committee on Appropriations with amendments.

The PRESIDENT pro tempore. The amendments of the committee will be stated in their order.

Mr. ALLISON. Before taking a vote upon the amendment—although there appear to be several, it is, in fact, but one amendment—I wish to modify a portion of the amendment, beginning in line 9, page 2, after the word "*Provided*," by omitting the words printed in italics and inserting what I send to the desk.

The PRESIDENT pro tempore. The amendment as modified will be stated.

The SECRETARY. On page 2 of the bill, line 9, after the word "*Provided*," strike out the amendment proposed by the committee in the following words:

That the members of said commission shall be allowed the sum of $15 per day each while employed in such service in lieu of traveling and all other expenses.

And insert:

That the members of said commission shall be allowed the sum of $15 per day each, the assistant recorders $10 per day each, and the other employees of the commission in the service of the Government $6 per day each, while employed in the work of the commission, in lieu of traveling and all other expenses.

The PRESIDENT pro tempore. The Senator from Iowa withdraws the committee amendment?

Mr. ALLISON. I withdraw the amendment printed in italics and wish to substitute what has been read.

The PRESIDENT pro tempore. In lieu of the amendment of the committee the amendment which has just been read is substituted.

Mr. BERRY. I offered an amendment and had it printed, and it is on the desk, I presume. It is an amendment to the amendment as originally reported by the committee. I do not know whether it is so worded now that it would come at the proper place, since the Senator from Iowa has changed the committee amendment. It was offered to the amendment as reported by the committee. I should like to have it read and to get a vote upon it.

Mr. ALLISON. I suggest that by unanimous consent the words I sent to the desk be substituted for the words printed in italics. Then the amendment of the Senator from Arkansas will apply to the amendment as now proposed.

Mr. BERRY. I simply said that as I sent the amendment up before the Senator made the change, I did not know whether it was properly worded as an amendment to the amendment.

Mr. CULLOM. Let it be read and then we can tell.

Mr. BERRY. I ask that the amendment to the amendment may be read.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the amendment which has just been offered may take the place of the amendment originally reported by the committee. Is there objection? The Chair hears none, and that order is made. Now, the Senator from Arkansas offers an amendment to that amendment. All it will need, perhaps, will be a change of place, or something of that kind.

Mr. HALE. Let us have the amendment to the amendment read.

The PRESIDENT pro tempore. It will be read.

The SECRETARY. In line 4, page 2, after the word "President," insert the words "not to exceed $4,000 per annum."

Page 2, line 10, after the word "allowed," strike out the words "the sum of $15 per day" and insert the words "their actual expenses."

Lines 11 and 12, strike out the words "in lieu of traveling and all other expenses" and insert the words "not to exceed $10 per day."

Mr. BERRY. Mr. President, I desire to say a few words in reference to my amendment to the amendment.

This bill as it came from the House of Representatives appropriated $50,000 for the payment of the salaries and expenses of the Anthracite Coal Strike Commission. It left it entirely in the discretion of the President as to how much should be paid to the commissioners, how much should be paid to the different clerks, and the amount of expenses which should be allowed. He was only limited by the sum of $50,000. The bill also expressly repealed the law now in existence which prohibits an officer of the Government from receiving two salaries at the same time. As it came from the House the President could pay those now in the service of the United States and on this commission, or doing work under the commission, such salary as in his discretion he deemed best.

I do not know whether it is now the case, as the amendment has been changed; but as it was reported by the committee that part of those connected with the commission who are now in the Government service were prohibited, as I understand it, from receiving any salary; in other words, the committee struck out that portion of the bill as passed by the House which repealed the

present statute on the subject. I should like to ask the Senator from Iowa whether as he changed it this morning that part is changed?

Mr. ALLISON. There was no change made this morning except simply the change I suggested to the Senator from Arkansas a day or two ago. The change simply provides for the payment of a per diem to the assistant recorders and the employees in lieu of a general accounting for expenses.

Mr. HALE. But the feature which prohibits additional pay to men who are now drawing salaries is still retained.

Mr. BERRY. It is still retained in the bill?

Mr. ALLISON. Yes, sir.

Mr. BERRY. That is all right.

Now, Mr. President, the question raised by my amendment is whether the Congress of the United States shall determine how much salary shall be paid to these commissioners, or whether that shall be left to the President of the United States.

I want to say that I am opposed to Congress giving what sometimes—improperly, I suppose—is called a "slush fund" to the Executive to pay out alone in his discretion. I think it will not be contended by anyone that there is any authority in the Constitution or the law which authorized the President to appoint this Coal Strike Commission, nor did he claim that he had any such authority. He simply claimed that a great emergency had arisen, which he believed justified him in taking the action he did.

But the question as to whether the members of the commission shall be paid at all or not rests with Congress. There is no legal obligation upon the Congress of the United States to appropriate one dollar. However, if Congress determines to pay the commissioners, then I say Congress should say how much shall be paid them. It should not be left to the President of the United States to give one of them $10,000 or $20,000 if he sees proper, but the responsibility should be taken by Congress and the salary should be fixed at a specified sum, or at least there ought to be a maximum fixed beyond which the President could not go in paying the commissioners.

I do not believe it is a proper precedent to permit the Chief Executive to fix salaries. I will not refer to past transactions. There has been legislation of this kind heretofore. There have been commissions appointed where it was left alone to the President to determine how much they should be paid, and no report has ever been made upon the amount that was so paid.

Therefore I believe it to be the duty of the Senate to amend the bill and fix some sum by way of salaries for the commissioners, who are not now in the service of the Government of the United States. In the amendment which I have offered I have fixed it at $4,000 a year. It seems to me that that is reasonable pay to the commissioners. However, if the Senate should think that amount too small, let them strike out the $4,000 and insert some larger sum. But what I insist upon is that Congress shall determine the salary, and it should not be left solely to the discretion of any executive officer to say how much salary shall be paid. That is the first proposition.

Now, the committee in its amendment provides that the President shall be authorized to pay each of the commissioners, including those who now hold office under the Government of the United States, the sum of $15 a day in lieu of traveling and all other expenses.

I submit, Mr. President, that that is an unreasonable sum. Fifteen dollars a day for their expenses amounts to more than the salary of a member of the lower House of Congress or a member of the United States Senate during the year. Bear in mind that the committee propose to give that in addition to such salary as the President may in his discretion think they are entitled to receive. I believe that it is an improper sum. I do not believe that their expenses will amount to one-half of $15 a day. If you intend to give them a salary and cover it up under the name of expenses, I submit that that is not the proper way to legislate by the Congress of the United States. We all know that it will not cost the commissioners $15 a day in the way of expenses while at this work. You can board, I think I heard a distinguished member of the Senate say yesterday, at the Waldorf-Astoria probably for $15 a day. It is an unreasonable sum for expenses. It sets a precedent which ought not to be set by the Congress of the United States.

I do not wish to cramp this commission. I do not wish to interfere with them in any way in the discharge of their duties. But I do say that when instead of allowing them specifically for their expenses the amount of $5 a day, or $2 a day, or $3, or whatever it may be, to give them arbitrarily $15 a day and then leave it to the President to give them so much more as he deems proper, is legislating in a way that was never intended by the people of this country or by those who framed the Constitution.

I therefore shall ask for a vote on my amendment, which, as I said, limits the salary to not exceeding $4,000 a year and provides for the payment of their actual expenses, provided they shall not exceed $10 a day. It is unfair and unjust to cover up by a specific sum, under the head of expenses, the amount they receive. They ought to file vouchers and show what their real expenses are. That they ought to be paid; and then they ought to be paid a reasonable salary, which I believe should be fixed, not by the executive department, but by the Congress of the United States.

The PRESIDENT pro tempore. The first amendment offered by the Senator from Arkansas is to the committee's proposed amendment, commencing at line 4 on page 2.

Mr. COCKRELL. Let the amendment be divided, so that we can vote on each proposition.

The PRESIDENT pro tempore. That will divide the amendment. The question is on agreeing to the first amendment to the amendment, which will be read.

The SECRETARY. Page 2, line 4, after the word "President," insert the words "not exceeding $4,000 per annum."

Mr. HOAR. Have the words in italics in the second and third lines been adopted?

The PRESIDENT pro tempore. No; those words have not been acted upon. None of the committee amendments have been acted on.

Mr. ALLISON. Mr. President, I understand the effect of the amendment to be——

Mr. DANIEL. I ask that the amendment to the amendment may be stated.

The PRESIDENT pro tempore. The amendment to the amendment will be again stated.

The SECRETARY. Page 2, line 4, after the word "President," insert the words "not exceeding $4,000 per annum;" so that if amended it will read:

And for such compensation of the members of said commission, its employees, and the assistant recorders, who are not officers or clerks in the civil or military service of the Government, as may be fixed by the President, not exceeding $4,000 per annum.

Mr. HOAR. I desire to suggest to my honorable friend from Arkansas a consideration about the phraseology of his amendment. It implies that Congress contemplates a long and permanent service. It speaks of the compensation as a salary per annum.

I suppose it is true in our past experiences that where these special boards have been established they very often prolong their service a great while at an annual and not a per diem compensation. They have not their report quite ready, and they will get it in at the beginning of the next Congress, and then afterwards there is constant delay. I do not think that would apply at all to gentlemen of such high character as those who are on this board, but I do not think it is a good precedent to put into a temporary board the suggestion that a salary of so much per annum shall be paid, as if the board was expected to last at least a year. I think it would be better to have a per diem rather than an annual compensation fixed. The fixing of a per diem only shows that Congress is thinking of a day, and not of a year, as the measure of their time; but also in that case they are not paid except for the day when they are actually at work, while an annual salary runs when they may be doing something else. I do not want to meddle with the amendment of the Senator from Arkansas, but I make that suggestion.

Mr. BERRY. I will modify the amendment so as to make it a per diem rate corresponding to $4,000 per year.

Mr. BAILEY. Say $12 a day.

Mr. BERRY. I will say "$12 per day for the time they are actually employed." I will modify the amendment in that way to meet the suggestion which has been made.

The PRESIDENT pro tempore. The Senator from Arkansas [Mr. BERRY] modifies his amendment so as to make it read "not exceeding $12 per day for the time employed."

Mr. ALLISON. Mr. President, I do not regard this question of compensation as of any very great importance one way or the other. This is an extraordinary commission, appointed under extraordinary circumstances, and is composed of gentlemen who have other pressing occupations, whether they are in the service of the United States or out of it. Some of the members of the commission have consented—one of them has, I know—reluctantly to enter upon this service, because, of course, it is impossible to know the tenure of the appointment and the length of the service. I do not think that a commission of this character should be tied down to a per diem compensation.

If it is not the wish of the Senate to leave this question to the discretion of the President, which the committee, I believe, thought it a safe discretion to lodge in him as respects these commissioners, then, I think, instead of allowing the commissioners a per diem compensation we should give them a fixed sum for the service they are performing. Nobody can tell, I agree, whether it will be a service of two months or three months or six months, but if Congress is to fix the compensation of those gentlemen who are not now in official station we

should allow them, I think, a lump sum. For one, I should be willing to allow them $4,000 apiece for this service; or if the Senate should think that too much, let it be made $2,500.

I think the President, if the discretion were left with him, would allow them a reasonable sum for the service. We all know that it is an extraordinary service, an exceptional one, and I think we should not for a moment stop short of giving the commissioners not only a reasonable compensation, but a full compensation, for the services they are rendering the country.

Mr. DANIEL. May I interrupt the Senator by a question?

Mr. ALLISON. Certainly.

Mr. DANIEL. Does the Senator propose that the per diem salary which he suggests should apply to those who are already in the service of the United States?

Mr. ALLISON. I do not. It will only apply to the three commissioners who are not now holding office under the authority of the United States. The bill, as sent to us from the House of Representatives, fails to provide compensation for those members of the commission now in public employment.

Mr. TELLER. I am a member of the Committee on Appropriations, but I was not present when this bill was considered. I want to know whether the committee considered the propriety of making an allowance, for instance, to the chairman of the commission, who is a judge of a United States court and who is absent from his judicial district, for his expenses while he is so absent?

Mr. ALLISON. We propose to allow the expenses of all the commissioners.

Mr. TELLER. All of them are to receive an allowance for expenses?

Mr. ALLISON. All of them.

Mr. TELLER. But compensation is to be paid only to those who are not Government officials. It seems to me that the bill ought to be a little more definite in that particular.

Mr. ALLISON. I think if the Senator will examine the bill carefully he will see——

Mr. TELLER. I have only had a moment in which to examine it.

Mr. ALLISON. The Senator will see that the compensation is to be fixed by the President.

Mr. TELLER. I do not think that is a very wise thing to do.

Mr. ALLISON. All the members of the commission not holding official station will receive compensation for their services. Of course, those who hold official positions will receive no compensation, because the committee have proposed to strike out the provision of the bill to allow compensation to them.

Mr. TELLER. It seems to me that it is a proper thing for Congress to fix the compensation and not for the President to do so. I suggest to the chairman of the committee that it would be much better, if $4,000 is the right sum—I do not say whether it is or not; I do not know—we should fix that or some definite sum. It is not, however, a matter of very much consequence to us whether we give these people $4,000 or $5,000; but whatever we give them they are rendering service that we hope will be of great value, but it is only a temporary service, and we do not want to give the commissioners such a salary as would induce them to continue indefinitely this investigation. We want it to terminate some day, and the sooner it terminates the better for all concerned.

Mr. HALE. Mr. President, the Committee on Appropriations, as a matter of fact, tried to take a conservative course upon this really very important bill. It is important because it is a clear innovation. It should be guarded so that it shall not be too much a precedent. The House of Representatives sent us the bill with all the bars taken down. They sent us a bill that left the entire question of compensation—not only of the members of the commission who hold office, but the outside members—entirely at the control of the President, and in terms placed a fund in his hands, to be treated in that way, without any intervention on the part of Congress. We did not think that a good thing to do, and I do not think that it is a good thing to do. In the first place, it committed to the President the tremendous power of taking men already holding distinct civil offices requiring their time and attention, who are paid a definite sum, and adding at his pleasure any amount to that salary already fixed.

The practice, Mr. President, of selecting officers of the Government for special duty, to be designated by the President, outside of their regular duties, is a pernicious practice. In itself it is bad. The Senate has had this question before it at a past day and expressed itself very clearly that this should not be generally allowed. It becomes all the more a departure from the spirit of our laws and an objectionable thing when to that is added the power of the President to fix any compensation that he chooses in addition to what the officers already draw. I should not like to see any precedent established under which the President should constitute a commission, even under the law—under a framed and passed and existing law—and should be authorized to select members of the judiciary, of the executive department, of the Senate, or of the House of Representatives, and make them a commission constituted by him with the indefinite power of giving them whatever salary he pleased.

The Senate Committee on Appropriations have proceeded to cut that up by the roots, and without thinking it desirable now to protest against the selection of these gentlemen who do hold office, who are competent and worthy men, who are engaged earnestly in their work, we did think it desirable to put a restriction by striking out the provision that the House had put in, especially repealing the sections of the Revised Statutes that prohibited two salaries, and leaving those sections in standing force. That is the answer to the Senator from Colorado [Mr. TELLER]. We thought we did it in the most efficacious way by striking out the provision of the House that lets open the door.

That carried us another step. It was a monition to the President not to give extravagant salaries to the men selected by him outside of the officers of the Government—three or four of them—when we said that a circuit judge of the United States, who receives $6,000; a retired brigadier-general, who, with allowances, receives about $5,500; the Commissioner of Labor, who has a regular salary, and the assistant recorder, who is an officer of the Government. Mr. Moseley, should only receive the pay fixed by law for the offices which they now hold. It was notice to the President, which I have no doubt he will take, that the other members should not be given extravagant salaries, which would be wrong to the other members of the commission, who are confined to their present official salaries.

Therefore we had no question that the President, in fixing these other salaries, would fix them at four or five thousand dollars, certainly at not more than $6,000, which the highest officer gets; and that is an answer to the Senator from Arkansas [Mr. BERRY], who wants to fix the salary in terms. In effect, in spirit, we have fixed it, and I look upon it as a matter of congratulation that Congress has the opportunity, and that the Senate has seized that opportunity, of not letting this go as a general sluiceway with the whole power given to the President. I do not fear that the President would unduly exercise it. He is a man who is responsive to suggestions that are made, either here or elsewhere, by sensible persons; but it is not well to leave the matter as the House has sent it to us.

Mr. BERRY. Will the Senator permit me to ask him a question in reference to the point he is just now considering?

Mr. HALE. Certainly.

Mr. BERRY. If I understand the Senator correctly, he said the action of the committee in providing that those members of the commission who are in office should not receive any additional salary was an intimation as to the amount the President should fix in paying the others. Now, I should like the Senator to tell me if it would be an intimation to the President to pay the remainder of the commissioners $6,000 a year, which is the salary received by Judge Gray, or $5,500, which is the salary received by General Wilson, or the $5,000 received by Commissioner Wright, or the $2,500 or $4,000 which is received by Mr. Moseley—which one of these salaries would the President feel called upon to take as the rule by which he shall pay the remainder of the members of the commission?

Mr. HALE. I think if the Senator or I were President—which we probably never shall be—we would take a fair average and make the compensation about $5,000. That would be the natural and customary way of fixing it, and I have no doubt that is what the President will do—that he will fix it at just about $5,000.

The suggestion has come out here in debate, and there is something in the suggestion that has been made that we do not want this an annual salary to go on from year to year. We do not intend that. I would not object to putting it in terms that the outside commissioners shall have $5,000 for their entire services, whatever time they take. I should say they would probably not take a year.

I should say also, with regard to expenses, that this should not be left entirely to one-man power. We ought not to be subjected to the reproach that we mean to be niggardly. I do not think $15 a day would be too much for all the expenses of these commissioners. They are not constantly engaged in this work. They hold sessions; then they go to their homes, and then they go back; and the allowance for expenses includes not only their hotel bills, but their traveling expenses. Senators know how soon $10 a day is eaten up. I do not think that the scale of $15 a day to these commissioners—they have to live at the best hotels in the places where they sit—will enable them to save a dollar. The proposition is not open, in my mind, to the objection suggested by the Senator from Arkansas [Mr. BERRY] that it is piecing out their salaries. They will get nothing out of it.

I do not know but that the suggestion came from the Senator in charge of the bill himself that it will satisfy everybody to

make this compensation $5,000 in all, letting no question arise about how long the commission shall continue, and then fix a per diem for expenses, as we have put it, and pass the bill.

I am glad the opportunity has been given here in the Senate for some expression to the effect that this unlimited and uncontrolled power shall not as a precedent be left to any one man.

Mr. BACON. Mr. President, I have been very much interested in what the Senator from Maine [Mr. HALE] has said, and I am very much gratified both by what has fallen from him and from the Senator from Iowa [Mr. ALLISON]. What they have said is a full recognition of the principle embodied in the amendment offered by the Senator from Arkansas [Mr. BERRY]. So far as the details of the bill are concerned, I think they are of comparatively little importance.

The important thing is to maintain that which is emphasized by the remark of the Senator from Maine that in the appropriation of money Congress shall everywhere definitely prescribe what shall be expended for given purposes.

Mr. President, we have had at one time, it will be remembered, action by this Senate and by Congress which might be deemed to be in conflict with this principle, but that was under very exceptional circumstances. I refer to the time when Congsess put $50,000,000 at the discretion of the President, to be expended for the public defense and safety in a time of very great emergency, just prior to the declaration of war against Spain. But that can not be said to be a precedent for anything less grave than the situation which was then presented. It was a matter which was recognized by all as of paramount necessity, and Senators who were then here will remember the fact that the action of the Senate, and I think also of the House of Representatives, though I was not present in the House when the bill was passed and can not say with certainty, but the action of the Senate was absolutely unanimous. Not only so, but it required no argument or suggestion from anybody to satisfy every Senator that that was the proper action at that time; and it is a historic fact that when that bill for the appropriation of $50,000,000 for the public defense, placed without limitation at the disposal of the President, was submitted to the Senate there was not a word said by any Senator either pro or con, and it passed by the absolutely unanimous vote of the Senate. No Senator upon that occasion then said anything on the floor of the Senate in advocacy of the appropriation, because nothing was necessary to be said. We were all of one mind in support of the appropriation.

It is probably proper that I should allude to another enactment which has been more recently made by Congress, in which there may seem to have been a departure from this general principle. That was in the bill providing for the construction of the isthmian canal. It is true that in that bill as it became a law there is a provision—a provision contained in the amendment drawn and offered by myself—which authorizes the President of the United States to fix the salary of the commissioners; but that even is limited by the qualification "until otherwise directed by Congress." The circumstances there were peculiar. We had to go to a tropical country; it was impossible to say what would be the conditions presented at the time, when possibly it would not be practicable to wait for the action of Congress—conditions which might lay upon the President the duty of determining the matter of salary in such a way as would enable him to get the benefit of the labor of persons whose skill and experience would make them proper persons for that great work.

I quite agree with the suggestion which the Senator from Iowa makes, or that of the Senator from Maine. I care not whether it is a limitation of amount, whether it is a per diem, or anything, so it is specified by Congress. I do not want in any way to express any want of confidence in the President. I simply desire to say that that which is intended as the peculiar and exclusive function of Congress, the appropriation of money, shall not in any way be frittered away by conferring the same upon the President, even though what is done under it may not amount to any very large amount in the expenditure of money.

I simply desire before taking my seat, however, to ask the Senator from Iowa, under the suggestion made by him as to the payment of salary, whether he still proposes to retain the provision in the bill which fixes the per diem expenditure at $15, or has he accepted the suggestion made by Senators for a reduced amount?

Mr. ALLISON. No; the committee believe, under all the circumstances that surround this commission, that $15 a day is a fair compensation for all the expenses they incur, including traveling expenses. It is a liberal allowance, I agree.

Mr. COCKRELL. Has there ever been any officer of the Government allowed such a sum?

Mr. ALLISON. I think not.

Mr. COCKRELL. It is a dangerous precedent, then.

Mr. ALLISON. But there is no officer of the Government of whom I know who has ever been engaged in such a temporary service. For instance, we allow judges $10 a day, covering their expenses when away from home in the service of the court; but this is a temporary service and has to be performed under exceptional circumstances. Therefore I think, if the Senator will permit me, and I believe the majority of the committee think, that is a fair compensation. It is a liberal one, I agree, but we all expect that this work will be completed in from four to six months, certainly in six months. Therefore we can well afford to pay these gentlemen liberally not only for their services, but for their expenses.

Mr. BACON. Mr. President, I hope the Senator from Iowa will agree to such an amount as will command the entire unanimous vote of the Senate. We all desire that there shall be a liberal amount for this allowance, but the amount fixed by the committee seems to many of us to be excessive. I think it would be a proper illustration of the conservatism and liberality at the same time of the Senate, not only as to money, but as to sentiment, if in a matter of this kind there should be no division among us and we could all agree upon the bill to be passed.

This is a matter unique, without any parallel, arising, as it did, out of what was a great public emergency, and I might say a great public necessity. It would be very gratifying if the details of this measure should be so framed as to have no division among us as to what should be done. Speaking for myself, I desire to say that, while it was not warranted by law, I think the action of the President was one highly to be commended, and I believe that it was instrumental in the aversion of a very great disaster. Of course it was not within the scope of the power of the President to appoint the commissioners and clothe them with any powers or to make any contract with them, and I do not understand that he undertook so to do. The payment of this commission, as stated by the Senator from Arkansas [Mr. BERRY], is an entirely voluntary matter on the part of Congress, and while there is, as suggested by him, no legal obligation there is a very high moral obligation. So I should be extremely glad if the Senator from Iowa would so modify the amount proposed by him for expenses, as other matters of detail have been almost practically agreed upon, as to command the vote of the entire Chamber without division in the passage of this bill.

Mr. TILLMAN. Mr. President, I was not present in the Appropriations Committee when this matter was considered, and therefore I am more or less ignorant as to the reasons which governed that committee in its action. I have been struck with the cogency of the argument and position taken by the Senator from Maine [Mr. HALE], but there have presented themselves to my mind some other questions which are cognate, and I should like to ask the chairman of the committee, or some other member of the Senate who is willing, to give me information, or at least a guess, as to how many of these commissions we are going to have in the near future.

The coal strike was, of course, a very grave situation, precipitated by peculiar conditions, which, according to the newspapers, were caused by an absolute disregard and trampling under foot of the constitution of the State of Pennsylvania. The question as to the punishment or control of trusts or combinations of capitalists who seek to monopolize the necessaries of life is one with which we are all deeply concerned, and we have various prescriptions, or attempts at prescriptions, for the disease, which all regard as a dangerous one, without anyone being willing apparently to make anybody take any physic. The last doctor that prescribed, I believe, merely wanted light—"publicity."

If we are going to stop short as a legislative assembly, clothed with the power, or supposed to be clothed with the power, to protect our constituents, I want to know when the next acute condition is produced by reason of these monopolies, whether the President is going to authorize the appointment of another commission, or rather appoint one, and then come to us with, you might say, the precedent established, as well as the unavoidable faith on his part that we will give him money in order that he may continue indefinitely to salve, to pour oil, so to speak, on this disturbed condition, to temporize with this unknown quantity in our public matters which assumed so threatening an aspect in the recent past.

Are we going to handle these things by commission, or are we going to endeavor to have an arbitration court appointed by the President without any authority other than a voluntary one assumed by his agents or those whom he requests to act? That is the view I should like to have some Senator express himself upon, and let us determine, while we are going along and laying down a rule, just how much or how little this thing is going to cost and how often we are going to be called on to take up the question of the settlement of the expenses of commissions appointed by the Executive contrary to the Constitution, and outside of his duty and authority, to deal with matters which belong to us peculiarly and which we shirk.

That is the condition, so far as I can understand it. I may be alone in my opinion, but it appears that we are dealing here in

a euphemistic or some kind of a soft-hearted way with a very serious disease. We are endeavoring to postpone the time when we shall have to stick in the surgeon's knife and cut out the ulcer. I confess I do not like poultices of this kind, and I should like to get some information from those who are in the class of rulers, those who control and direct the Government, those who are responsible for the situation and in whom the people have reposed responsibility and power, as to whether we are to go along during this session of Congress and do nothing more than this.

Will we merely turn on some "light," or pretend to open some window to give some light, or light a dark lantern to furnish light, or shall we repeat Diogenes's programme of going around to find an honest man or a brave man to take up and uproot this thing? Are capitalists who are monopolists and who seize upon the necessaries of life and rob the people being, you might say, encouraged to do so by our failure to do what is our plain duty?

Mr. LODGE. I wish merely to ask the Senator from Iowa a question. Does he understand that the recorder is included among the commissioners?

Mr. ALLISON. I do so understand.

Mr. LODGE. He does not have to be specifically named?

Mr. ALLISON. He does not. The Commissioner of Labor, Mr. Wright——

Mr. LODGE. Yes.

Mr. ALLISON. Was appointed recorder, and then afterwards made commissioner, as I understand; so that the bill covers it.

Mr. HALE. There is no doubt about it.

Mr. LODGE. I observed in the proviso that the recorder was not mentioned, and I merely wished to inquire.

Mr. ALLISON. Mr. President, a word as respects the question of compensation and also respecting the amendment proposed by the Senate committee to the bill as it came to us from the House.

We regarded the precedent sought to be set here, of repealing those provisions of the Revised Statutes which forbid public officers from receiving compensation so as to allow them to receive double pay, as a mistake, and therefore we struck that out. Hence all those holding office must be content with their present compensation. I do not know, but I am of the opinion that the President of the United States would be very glad if we would relieve him of the duty of fixing the compensation of the remainder of the commissioners. I do not think he seeks that service or has any wish to fix the compensation.

I think that under the circumstances the President was justified in looking around and selecting the public officers whom he did select for this service. He does not pretend, as I understand, that this commission is authorized by law or that he had any authority under the statutes or under the Constitution, if you please, to appoint it. But he was confronted with what an eminent citizen once said was a condition and not a theory, and he undertook the solving of the problem of the anthracite coal strike when probably no other person could have done so. I believe the strike began as early as May.

Mr. KEAN. Yes.

Mr. ALLISON. The whole summer passed away with an endeavor to reconcile the differences between the laborers and the corporations owning the mines.

Mr. TILLMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. ALLISON. I do.

Mr. TILLMAN. Is the Senator informed, or is he prepared to answer the inquiry, whether the coal combinations, the operators, are mining coal according to law? Have they trampled the constitution of Pennsylvania under foot or not; and if they have, was it in the power of the Attorney-General under the antitrust act of Congress to give relief; and if not, is it not the duty of Congress to clothe somebody somewhere with authority to relieve the people from such oppressions and dangers and discomforts and actual suffering as now exist by reason of this unlawful and unconstitutional condition?

Mr. ALLISON. Mr. President, that is a question which my mind fails to grasp at a single stroke. It involves so many questions, and so many questions which are not involved in the matter we now have before us, that I trust the Senator will excuse me from entering upon its discussion.

Mr. TILLMAN. Mr. President——

Mr. ALLISON. If the Senator will allow me, I think in a general way that this body has jurisdiction to deal by and large with the great question of corporations, as respects what are called trusts, etc., but that subject has no relation whatever to this appropriation. And I will say——

Mr. TILLMAN. Mr. President——

Mr. ALLISON. The Senator will allow me to answer him so far as I can. I will say to the Senator that I have no knowledge, except that which is gained by general reading, of the statutes of Pennsylvania and the constitution of Pennsylvania. The Senator from Pennsylvania [Mr. QUAY] undoubtedly is entirely familiar with that subject. Nor have I any other knowledge of the condition in the coal fields than that gained by reading the newspapers.

I only know, Mr. President, that the anthracite coal field is embraced within an area, it is said, of about 450 miles. I know that it furnishes fuel for more than 30,000,000 people. I know that it requires or has required in the past from 50,000,000 to 60,000,000 tons to supply that want, and owing to the difficulties between those who own the coal and those who produce it from the mines becoming very serious, production ceased.

The President naturally took an interest in the subject. He tried in various ways to deal with it as a citizen. He asked the Commissioner of Labor to go into those fields and inquire into the situation. That fact I gather from the newspapers, and I believe it is published in the report. He tried so far as he could, as I suppose did every other citizen interested in the subject, to settle this question. Finally the President found, or believed at least, that if he would interpose he could secure in some way an adjustment of this difficulty.

He tried to bring the operators and the miners together, and they were brought together in a way. In the selection of this commission the President was largely, I am sure, governed by the conditions of the voluntary agreement made between the operators and the miners. In a general way they designated who should be appointed, and I have no doubt that accounts for the appointment of that eminent jurist, Mr. Justice Gray. I have no doubt we all agree that he, as chairman of the commission, will probe the facts to the bottom and will make a fair and just decision as respects the questions which have been submitted to the commission by the operators and the miners, and not the President, except in the way suggested by the miners and the operators.

Now, what is true of Judge Gray is also true of Commissioner Wright, who has made a life study of labor questions, and although he was a public officer, I think it was well enough that he should have been selected as one of the commission. So of Mr. Moseley, who is familiar with transportation matters. I have no doubt, Mr. President, that the President of the United States hesitated to make these selections from gentlemen occupying public stations, but he found, under the circumstances surrounding this special case, that they were the people who were satisfactory to the two sides to the question.

Now, the only point we have to consider is not what the future will bring forth, but whether or not this was a question of serious difficulty at the moment, and whether the President as an eminent citizen was justified in authorizing this tribunal, and then whether or not these eminent citizens did the right or the wrong thing in accepting this service. It is a remarkable service and it is an exceptional service, one that will occupy only a few weeks or a few months. I have no fear of any precedent being set by it.

Mr. MORGAN. May I ask the Senator from Iowa a question?

Mr. ALLISON. Certainly.

Mr. MORGAN. Would it not be a very much better plan to appropriate this sum of money, $50,000, or whatever sum is requisite, as a contingent fund to the President of the United States, to be used in the domestic service? We are appropriating every year, and we appropriated in the last appropriation bill, I understand, $250,000 for contingent purposes to the President, to be used in respect to our foreign relations. He does not have to account for it in any way, and Congress is not legislatively committed in any way at all to the application he may make of it.

So it seems to me in this case this honorable committee should prepare and present a substitute for the bill, providing that $50,000 be appropriated for the contingent fund to the President of the United States for domestic uses or uses within the United States. Of course he would understand what it means. The difficulty I encounter, if the Senator will pardon me a moment, is this: We are starting upon a legislative recognition of this manner of settling disputes. If we establish the precedent and put some pretty high price upon the salaries of commissioners we may expect that disputes will originate for the purpose of having such arbitration and such payments made. So if we put the money in the contingent fund, I think it would be a very much safer course. I merely submit this to the Senator as my suggestion upon the subject.

Mr. ALLISON. The Senator suggested that to me in conversation a while ago, and it struck me as a very good way of reaching the question, but on reflecting for a few moments on this subject I think it would not be a wise thing, but would be the very reverse of it, because if we get into the habit of giving the President a sum for domestic purposes which he is not required to account for, I think it will be very difficult to get rid of such an appropriation.

As this is a domestic matter and an exceptional matter, as I tried

to show, I think there can be no precedent in this case, because there can be no other cases like it unless the same thing should happen again in reference to the anthracite coal regions. It constitutes no precedent. But whatever is done about it should be done in an open way, and whatever we appropriate we should appropriate as we appropriate for other extraordinary conditions; for a famine, if you please, or an overflow of the Mississippi River, or for any other great emergency which suddenly comes up and requires a large expenditure.

So I think we had better adhere to the plan we have suggested. I am willing that a specific sum shall be put in this bill for those who are not holding office, and I am quite content to take the suggestion made by the Senator from Maine as to the amount, although I think $4,000 would be an ample allowance.

Mr. COCKRELL and Mr. TILLMAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. COCKRELL. I yield to the Senator from South Carolina.

Mr. TILLMAN. Mr. President, I have listened very carefully to the Senator from Iowa [Mr. ALLISON], and while he complained that I asked a long question and so many questions in a bunch that he would not undertake to answer all of them, I do not see that he answered any of them. And while I have always had the greatest admiration for that distinguished Senator, for the placidity and agility with which he pooh-poohs things sometimes and shoves them aside, I must confess that to my mind the substance of this whole contention has been more or less avoided by him—at least my contention.

I want an answer from that Senator or any other Senator who is willing to reply first as to the fact whether or not the coal barons, who brought on this trouble, are mining coal contrary to the laws and constitution of Pennsylvania; and if so, is there any existing remedy? I will ask that question as a concrete proposition. If the Senator from Iowa is ready to answer that question or is not ready to answer it, I would be glad for him to say yes or no.

Mr. ALLISON. Now, Mr. President, if the Senator will yield to me, he requires me to answer "yes" or "no," which I will respectfully decline to do. If he will allow me I will answer him in my own way.

Mr. TILLMAN. With pleasure I will listen to the Senator. I do not want to have the appearance of coercing—I could not do that—or of corkscrewing any statement from the Senator.

Mr. ALLISON. Certainly not.

Mr. TILLMAN. I merely desire, if I can, to have him, if he is willing, and if he is unwilling, any other man who is willing or able, to reply "yes" or "no" as to whether or not what I have asked is true.

Mr. ALLISON. I know that somebody is mining coal in Pennsylvania, and I know that they resumed the mining of coal after this commission was appointed, and as a result of that mining we are receiving coal here now at the rate of a few tons a week, which is being doled out to us.

The people who are mining that coal are, I presume, engaged in a lawful enterprise. If they are miners, they are receiving compensation. If they are owners, they are selling the product. Now, whether what they may be doing is in accord with the statutes and the constitution of Pennsylvania or in violation of them it is impossible for me to know, as I am not familiar either with the constitution or the statutes of Pennsylvania. That is as far as I can answer the question. But I can not answer him as respects the questions which he now submits unless it would be to say that the committees of this body having the subjects in hand are, I have no doubt, dealing with them as best they can.

Mr. TILLMAN. Mr. President, having failed to get from the Senator from Iowa the information which I sought, I now submit the question to any Senator and all the Senators on the other side. I am perfectly willing to get light from this side, from anywhere, as to the facts. Is it true that these unlawful combinations and corporations have seized on an article of vital necessity to the people in their everyday life and comfort, involving almost their existence; and are they making it so dear that the conditions now existing are so uncomfortable and so unpleasant and dangerous that we, who are face to face with it, content ourselves with assisting the President in putting on what I may term merely a poultice? I do not criticise the President for his action at all. I think it was very laudable, having no power as the Executive, he should endeavor to bring about some compromise or arrangement by which the people first should get coal. But does that relieve us of our duty to see that this thing does not happen again?

Mr. ALLISON. Does the bill propose to relieve us of our duty in any way?

Mr. TILLMAN. Oh, this bill, as I have characterized it two or three times, is merely the appropriation of money for a purpose, laudable in itself possibly, but merely as a confession of our imbecility or our inability or our cowardice to take the question up and deal with it ourselves as it is our duty to deal with it. We are postponing and putting it off and leaving it to an unconstitutionally constituted commission, which we recognize and make lawful by our action here in appropriating money for it, and thereby set a precedent which, as the Senator from Maine has pointed out, is a very dangerous one.

I want to ask Senators if they are going to be content to have this session of Congress pass out of existence and end and leave the country liable to have another coal strike in the bituminous regions or in the anthracite and bituminous regions both, and enable those who may feel that they have the power and the right to monopolize that business or those producing facilities to lay the people of the country under tribute, and we who are the representatives and protectors of the people stand here idle and adjourn and go away and only turn on some "light?" We do not even, so far as I see, expect to get much light from this commission in time for the present session of Congress to do anything. These people will take testimony, under the ordinary experience we have had with such bodies, indefinitely. At least, we will certainly have gone away before we will receive any benefit whatever or any intelligence or any information from the facts which they will elicit. Their report will come to us next December. I should like to have——

Mr. MASON. Mr. President——

The PRESIDING OFFICER (Mr. ALDRICH in the chair). Does the Senator from South Carolina yield to the Senator from Illinois?

Mr. TILLMAN. With pleasure.

Mr. MASON. I wish to make a brief statement in regard to what seems to worry the Senator somewhat, and possibly I can bring him peace of mind, and he may go on and let the Government pay for the commission which has been appointed, waiving the question as to whether the President had any power to do it. I simply wish to make the statement that it was done with the approval of all the people, and there can be no possible doubt that the people are entirely willing to trust the Executive to make due and proper allowance or compensation.

I want to say to the Senator that if he has confidence in the gentleman who now has the floor—and I am sure he has in some ways—I have prepared a bill which I intend to present to the Senate within the next few days and have referred to the Judiciary Committee, which, I think, will relieve his anxiety, temporarily at least. Without taking the time of the Senate to explain either the intention of the bill or its merits, I will say it simply provides that when these great mines are not being operated the Government of the United States, through its Attorney-General, may ask for the appointment of a receiver to operate the same for the benefit of the people; and under that clause of the Constitution which provides that we may pass laws for the general welfare, I believe it to be a bill entirely within the power of Congress to pass.

While I quite agree with the Senator from Iowa [Mr. ALLISON] that the matter has no special place in this discussion, yet when the Senator from South Carolina, in that vigorous way he has, turns to every gentleman upon this side of the Chamber and wants an answer, I feel that I owe it to myself to state that in response to the petitions of over 50,000 people in Illinois that bill has been prepared and will be submitted in good faith, and it will have the very best effort I can give to secure its adoption as a law of this country.

I think I can satisfy the members of the committee and the Senate that it is clearly within the power of Congress, under decisions already rendered by the Supreme Court, to pass such a law, so that the thing which the Senator from South Carolina now fears may not happen again. Then, when the time comes that, either through the cupidity of one side or the stupidity of the other side, the great mines of the country are stopped, the Government, as it has in many other cases, may go into a court of equity and ask for the appointment of a receiver, who shall operate the mines not in the interest of labor, not in the interest of capital, but in the interest of the third party, the public, accounting both to labor and capital in a proper way. I have answered the Senator, so far as I can, and I hope he will be satisfied and will let us pass this bill to pay the obligations we have already incurred for the distinguished men who are now giving their services.

Mr. TILLMAN. Mr. President, as between the distinguished Senator from Illinois and a distinguished gentleman, formerly a Senator from New York, one of whom proposes to seize the mines and operate them by the Government and the other of whom proposes to buy them and control them absolutely, I will not enter upon a discussion of the ownership or control by the Government, by orders of courts of equity or from other sources, of the coal mines. I hope to get a reply from somebody in denial of the oft-repeated assertion which we hear every day or have heard for months that the coal barons of Pennsylvania are now and have been operating those mines contrary to the constitution and

laws of that State, and I wanted somebody somewhere to tell me whether or not under the Sherman antitrust act the Attorney-General of the United States could have gone into some court somewhere and given relief.

I still wait for an answer to that inquiry. First, is the statement true as to the unconstitutional possession and working of these mines? Secondly, if it be true, is there in existence a statute which would enable our Attorney-General to give the people relief?

Now, I have two prongs up here in the air, and any gentleman who wants to get on either of them is welcome. I will not say that they are the prongs of a pitchfork, but they are certainly problems. They present a dilemma, and I still ask for a reply to either question, or both, from the assembled wisdom and the trusted agents of the people who, in the last election, were authorized to continue possession and administration of the Government. If the people are satisfied with this condition, as they seem to be, I surely am not dissatisfied, or I have no right to be.

I have no criticism to make of the President for endeavoring in his capacity as a public official, as well as an eminent citizen, to bring about some condition of amelioration. I am ready to pay the men who have been appointed anything reasonable and proper, but I do not get any light or any encouragement to hope that there will be any relief from the conditions which produced this situation and which may produce another.

I would ask, further, if it is the purpose to encourage the obtaining of information and the reaching of some basis of compromises between labor and capital, why it would not be a good thing for the Congress to have a commission, constituted under its own regulations and with its own instructions, to take up this whole question of the conflict between labor and capital and the combinations which exist now, the destruction of competition by monopoly under the protection of the tariff, and all those things, and let us see whether some scheme of practical relief and statesmanlike dealing with this subject can not be reached.

Mr. COCKRELL. Mr. President, I hope the Senator from Iowa will accept the amendment and agree to reduce the per diem expenses to $10 a day. I claim that $15 a day is an outrageous price. It is more, and we know it, than any one of those men will expect. They are not occupied every day. They are at home several days at a time. They do not have to travel any great distance. If we establish the precedent of paying over $10 a day for the expenses of any officer of the United States it is a dangerous one and will come back to haunt us hereafter.

We provide a per diem for a great many officers and the per diem for traveling expenses is an enormous charge upon the Government. In order to prevent the necessity of every little item being subjected to the scrutiny of the accounting officers of the Treasury Department, who would suspend about two-thirds of the accounts that would be presented as not being necessary, we fix a given amount.

There are persons who are in the service of the Government on very important interests who are traveling all the time—there is scarcely a day when they are not traveling—and not one solitary one of them gets over $10 a day, and very few get $10 a day. The rule is $3 and $4, and some few of them get $5 and pay their expenses. The highest per diem for expenses is given to United States judges, and that is when they are away from home.

Mr. BACON. And that is limited.

Mr. COCKRELL. That is limited, not exceeding $10 a day. But here, when men are performing duties within a short distance—most of them, at least—from home, we are setting a precedent that is dangerous. I can not vote for it, and I will not do it under any circumstances.

Mr. McLAURIN of Mississippi. Mr. President, I desire to make a suggestion to the Senator from Iowa in charge of the bill. I see by the bill as it was proposed to be amended by the Senate committee there is provision made for the payment of the expenses of the members of the commission who are not officers in the civil or military service of the Government, but there is no provision made for the payment of the reasonable expenses of the employees and assistant recorders. It seems to me that it is proper——

Mr. ALLISON. I will say to the Senator from Mississippi that the Senate has already adopted an amendment providing $10 per day each for the assistant recorders.

Mr. McLAURIN of Mississippi. I did not know that that had been done.

Mr. ALLISON. That amendment has already been adopted.

Mr. McLAURIN of Mississippi. I have an amendment which I wanted to offer, to make some provision for the clerks.

Mr. TELLER. Mr. President, it seems to me the debate is getting a great way from this simple appropriation bill. What struck me was that we ought to fix the salary absolutely. I do not care myself to go into a discussion of the power of the President in this matter. The President found a very unpleasant condition existing. Nearly 150,000 men quit their labor last May and continued away from work until October. The controversy was whether they were being properly compensated for their labor. That was a question between the operators of the mines and the people. I do not understand that the President claimed, as President of the United States, the slightest authority. On the contrary, he disclaimed it. Simply as a citizen, I understand, he approached this subject. I happen to know that just at that time a very distinguished citizen of the State of New York had attempted to do the same thing—to negotiate, as he thought, with some prospect of success. Whether or not his expectations would have been realized no one knows.

I believe everybody in the country was delighted when the President of the United States used his great influence to bring about some arrangement between the coal miners and the coal operators. I was not present, of course, and I do not know, but I think the President must have been a man of a good deal of patience and good temper that he did not lose his temper by the way he was treated by the coal operators, and if the laboring people had not been better represented by their representatives than the coal men seemed to be, it appears to me that there would not have been any arrangement made.

I do not know what the power of the President may be to appoint a commission. I think he may appoint a commission for acquiring information, perhaps, whenever he sees fit. Of course, he has no power to pay the commission. That is a question to be determined by Congress. If we think the commission was wisely and properly appointed, there is a moral obligation at least to make proper compensation and provision for the support of the commission.

I do not know whether the coal operators of Pennsylvania are violating any Pennsylvania statutes or the constitution of the State, and if I did know that they are doing it I am not sufficiently informed myself as a lawyer as to the method by which we are to resent their failure to comply with the statutes or the constitution of Pennsylvania. That seems to me to belong to Pennsylvania, and I doubt very much whether under the general welfare clause we can invade the jurisdiction of Pennsylvania and take it out of their hands.

I suppose we might amend the Constitution and provide for all such things, but we have not done that. However, the President appointed a commission which it has been said is satisfactory to everybody. I have heard no complaint of the commission myself. I think the President was somewhat restricted in appointing the commission, owing to the fact that both sides put a limitation upon the character of the appointees. Therefore, the President, perhaps, did not make such a selection as he might have made. Yet I do not think anyone ought to raise any question about the selection. They are able men, they are good men, and they are doing an excellent service for the Government and for the country.

I do not know whether, as has been suggested, there is to be a repetition of this strike. I do not know, if that is to occur, but that the sovereignty of Pennsylvania may be called into operation to take the property out of the hands of these people and put it into the hands of the State or somewhere where the public will be properly relieved. But none of those questions are here now. The only question before us is as to whether we will make proper compensation to the members of the commission, who have left their business, and some of them their private business, to perform this duty.

I think the public ought to feel a sense of gratitude to some of the gentlemen who have gone on that commission and who have entered upon a very unpleasant service, and have done so simply in the interest of the public. I do not think we ought to higgle very much about the price we shall pay them. I should like to have it fixed, because I do not believe in allowing the President or anybody else to fix salaries. That, in my judgment, belongs to Congress.

I think it would not be out of the way to put a moderate restriction as to the time when the commission shall report; not because I am afraid of this commission, but as a general principle I think the appointment of commissions ought not to be for an indefinite time. It ought to be fixed and determinate. But all those things ought to have been considered and determined in the committee.

It seems to me that the best thing we can do is to accept the proposition which I now understand comes from the chairman of the committee—fix the salary definitely, at least so far as the amount is per day, and quit. If we give these people $10 a day or $12 a day, which I think was the last suggestion, we will give them only a trifle over $4,000—$4,380—provided they sit a year. If we should give them $15 a day we would be paying them $5,475 per annum. The commission is one of great importance and some of the men on it of such character that I believe it will actually be a sacrifice to them if we give them $15 a day. I do not believe we should go beyond a reasonable compensation for this public service, and I think we had better not attempt to bring into this discussion very difficult and unsettled questions, and question-

which will be unsettled for a long time, as to trusts, etc., but we should dispose of this one question as a business proposition and quit.

OMNIBUS STATEHOOD BILL.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

Mr. ALLISON. I ask the Senator from Pennsylvania [Mr. QUAY] having charge of the regular order, or at least who is pressing it, whether he will not consent now to finish the Coal Strike Commission bill? I think it can be closed up in a short time.

Mr. HALE. Temporarily laying aside the pending bill.

Mr. ALLISON. Yes; temporarily laying aside the regular order.

Mr. QUAY. I regret to say that I feel it to be my duty to resist the request of the Senator from Iowa for the present. I think, however, later in the day he will have an opportunity to complete the bill he has in charge.

Mr. ALLISON. Very well.

The PRESIDENT pro tempore. The bill which is the unfinished business is before the Senate as in Committee of the Whole and open to amendment.

Mr. QUAY. We are ready for a vote. What is the question upon the bill, Mr. President?

The PRESIDENT pro tempore. The amendment of the Committee on Territories having been withdrawn, the question is on the bill as it came from the House of Representatives.

Mr. JONES of Arkansas. On the passage of the bill.

Mr. QUAY. Let us have the question.

Mr. BEVERIDGE and Mr. NELSON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana.

Mr. BEVERIDGE. Mr. President, do I understand that the Senator from Pennsylvania is ready now to go on with the discussion of the bill which he champions?

Mr. QUAY. We are ready to proceed to vote now on the bill and pass it finally this afternoon, if a majority of the Senate are in favor of it.

Mr. BEVERIDGE. I did not hear the Senator.

Mr. QUAY. I said that the friends of the bill now pending are prepared to take the vote upon it this afternoon and pass it finally this afternoon, if the gentlemen who are opposed to it are ready to proceed to the issue.

Mr. BEVERIDGE. Mr. President, all the majority members of the committee, and in addition to them a number of other Senators, desire to address the Senate upon this measure and upon the substitute which was yesterday withdrawn with notice that it would be at a later time offered. I do not suppose the Senator means that he and those who are with him are willing or desire to stand up and be counted upon a measure of so grave consequence without regard to the facts in the case or the arguments upon them. The reason why I can not understand that to be the Senator's attitude is that that would be to pay to those who are with him a sorry compliment.

Mr. GALLINGER. Not at all.

Mr. BEVERIDGE. The view that is taken by ourselves, and which is, I suppose, shared by the Senator from Pennsylvania, is that this is a measure which, without unnecessary delay, ought to be and will be discussed in good faith, each Senator who desires to lay before the Senate his views upon the matter having an opportunity to do it. That, at least, Mr. President, is the attitude of the majority of the committee.

With reference to those who wish to speak upon this measure, every member, as I said, of the majority of the committee desires to express his views. Possibly the Senator from Vermont [Mr. DILLINGHAM] will open the debate upon our side. He was ill the first two days of the week, though able to get here, and is to-day ill in bed, although he is making such preparation as circumstances permit. Every member of the majority of the committee has been at work with a diligence to which even the Senator from Pennsylvania will testify, and they have also been at work faithfully preparing to present to the Senate their views upon this question. Some of them are here, and will speak for themselves. The Senator from Minnesota [Mr. NELSON] who offered the committee substitute desires to address the Senate. The Senator from New Hampshire [Mr. BURNHAM] is now preparing for the same purpose. Outside of the committee a number—I may say a large number—of Senators have expressed to me their desire to address the Senate so soon as they can possibly examine the facts in the case, the data on both sides to which they have access, and the report of the committee.

But none of them, Mr. President, are ready to proceed to-day. Both reports were made but yesterday. The evidence in support of the report of the committee was ordered to be printed yesterday and the printing will not be done until to-night. So there has been no opportunity, as the Senator will readily see and as the Senate will see, for any person to inform himself upon this question. Therefore, we are not ready now to proceed. However, I can say to the Senator from Pennsylvania, and to the rest of the Senate, that without any unnecessary delay at all, but with all diligence, Senators who desire to address the Senate upon this measure will do so at the earliest possible moment.

Mr. QUAY. Mr. President, I have no reply whatever to make to the insinuation that the friends of the bill are ignorant as to the conditions in these Territories or that they are expected to derive wonderful light on the subject from the report of the majority of the committee. As to me, as I said before, I understand the position as well as does the Senator from Indiana or his colleagues of the majority of the Committee on Territories, and I am ready to vote now. I am inclined to the opinion that a majority of the Senate, who are in favor of the bill, are sufficiently intelligent and well informed to act upon it this afternoon.

There is no desire, however, to unduly press the Senator from Indiana or the majority of the Committee on Territories into a discussion of the bill if we can have any assurance that at any time in the near future we shall have a vote upon it. If we can not do this, but have to fight constantly for a vote, we may as well fight this afternoon. If the Senator from Indiana will name any time in the future—I will not say even in the near future—when a vote can be reached upon this bill, I am ready to agree to any date he may suggest.

Mr. BEVERIDGE. The Senator says, "if they have to fight constantly for a vote." In answer to that, I think it is proper for me to say that that is hardly appropriate now, when the discussion has not yet begun, nor has there been an opportunity for it to begin.

I have said to the Senator that this measure shall proceed without unnecessary delay, except such as is required by Senators to express their views and prepare to express them. The Senator knows, and no one so well, that it would be perfectly impossible at this day, and a thing perhaps unprecedented in the Senate, certainly so during the very brief time I have been here, that at the beginning of a discussion, before a single speech has yet been made on either side, a day should be fixed when the vote shall be taken. It is perfectly impossible for the Senator and myself, or any Senator, to say how many Senators desire to speak, how long they wish to speak, or what preparation they require. The only thing that the Senator should require from me and that he has a right to require, and I recognize it without his asking, is that the matter shall proceed as rapidly as Senators can prepare to present their views. It is manifestly impossible at this time for any person to intelligently fix a day for the final vote.

Mr. LODGE. Mr. President, I have not the honor to be a member of the Committee on Territories, but in the few years I have been here I have seen a great many bills brought into the Senate which there was great anxiety to pass with speed, and I have seen a number of very hardly contested bills in which there was great interest felt on one side or the other. But I confess that this is the first time I have ever heard a request made to fix a time for a vote and to insist upon the discussion of a bill when the report of the committee is not even yet in print, nor is the testimony which the committee has taken in print.

This bill may be a perfectly simple one and one that ought to go through on reading, but it would seem to me to be a measure of great importance. I do not desire to be unreasonable at all, but I should like to have an opportunity to read the report of the committee. I should like to have an opportunity to read the minority report. I should like to have an opportunity to look at the testimony.

It seems to me that the admission of three States into the American Union is a matter of sufficient importance to allow us a reasonable time to inform ourselves. I have had neither the time nor the opportunity as yet. I should like not only to look into the question, but I hope to discuss it, if my views remain as to two of the Territories what they are to-day. However, it is utterly out of the question for me to deal with the subject, upon which the report of the committee is not yet upon our tables and the testimony in regard to which is not yet printed.

I am sure that I sympathize with the impatience of the Senator from Pennsylvania. At the last session there were two bills which fell to me to take charge of. One was the Philippine tariff bill, a measure as simple as possible. The other was the Philippine government bill, which was a measure not only of much importance, but of large complication. We spent twelve weeks in discussing those two measures. The Senators who had charge of the minority measure were kind enough to say at the end of the discussion that they thought I had been considerate in the matter of debate. But, whether I was considerate or impatient, I

certainly did not come into the Senate and ask the Senate to fix a time to take a vote before a report had been printed, before a line of the testimony was in print, or before a single speech had been heard.

It seems to me that it is a well-recognized privilege of the Senate that the members of a committee who are presenting an important measure of this kind should have at least the opportunity to defend their report, and it does not seem to me that the suggestion of the Senator from Indiana is unreasonable at all. I have not the least desire to delay this bill unduly; far from it. I should like, however, to have an opportunity to examine the facts and the report and an opportunity to prepare myself to speak upon it, as I hope to do.

Mr. BATE. Mr. President, speaking for the minority of the committee, I desire to say that they are ready to vote now on this question. They feel that they are sufficiently informed. And a majority of those on the other side of the Chamber are ready to vote now. We do not desire, however, to suppress any discussion that may be desired and that may be proper to be given on either side of the Chamber, but we certainly ought to facilitate this matter.

I appreciate what was said by the Senator from Massachusetts who has just taken his seat, when he said we ought to have the report here to examine and to learn the facts in connection with this matter. I think so, too.

It will be remembered, Mr. President, that on yesterday, and even on a former occasion, I asked that the report from the committee should be made, in order that the minority—and I am one of them—might make their minority report. Now, that report was made yesterday, and it was read. Nearly an hour and a half was spent, or two hours, in the reading of it. That report has gone to the printer. It is not in the RECORD. We have not seen it and can not see it, notwithstanding I have been urging it. How can the minority reply to a report that has been presented by the majority, if they desire to do so, unless they see that report? To my surprise, after having been read yesterday, instead of being published, as I think it should have been, in the RECORD, I find right at the termination of this question yesterday by the Senate the following note:

[The report is withheld for revision and will be published hereafter.]

Giving no indication as to when it will be published I should like to have the Senator from Massachusetts gratified in seeing that report and to hear the minority report, but he can not expect the minority to present their report until all the points are shown them in the report of the majority, which, as I said, was read yesterday, but it is not published.

Mr. HALE. Mr. President, I think we all understand that, whatever may be said outside about the Senate, in the end on all important matters we do business. We take our way of doing it. The newspapers say we ought to have the previous question. We do not think so, and in our own way, after full discussion, we never fail to come to a vote upon every contested large matter.

It is rather the habit to say that the Senate is too much of a deliberative body; that it wastes time in speech-making; but the record shows that out of it the Senate's way is a good way to do the public business. We do not have the crowding, the forcing, and obliging men to vote without discussion that they have in some other bodies. Not only have we no previous question, but nobody undertakes on a controverted question to push matters unduly and to the inconvenience of Senators.

I am sorry that the veteran Senator from Pennsylvania [Mr. QUAY], in charge of this bill, has intimated that he can not consent to any further delay for debate, and that if a Senator is ill and can not speak, we shall not adjourn——

Mr. QUAY. The Senator is mistaken. I did not so intimate.

Mr. HALE. The Senator's general intimation, while he did not refer to the Senator from Vermont being ill, was that his side was ready for the vote this afternoon, and he suggested what I think must have struck every other Senator as it did the Senator from Massachusetts, as a remarkable thing, that now, before the lists are open, we should agree upon a time when the vote shall be taken; and I am sorry that the venerable Senator from Tennessee [Mr. BATE], urging against any kind of reasonable delay, should say to us that his side of the Chamber wanted to vote now.

Why, Mr. President, that side of the Chamber is more interested than any other Senators here in not being unduly pushed or crowded. There have been times heretofore, and there will be times hereafter, when that Senator and other Senators upon the minority side, the Democratic side, will be appealing to this side not by force of arms to push the decision of a matter until it has been thoroughly exhausted by debate.

Mr. BATE. The Senator does not quote me correctly when he says that I said that we were ready to vote. I meant after discussion.

Mr. HALE. I do not understand that the Senator made any threat, but he said his side was ready to vote now and willing to go upon record.

Mr. BATE. I said distinctly that we on this side are not divided on this question, however it may be with Senators on that side.

Mr. HALE. I am quoting the Senator correctly in saying that he said his side was ready to vote. I was sorry that he should say that, because I have never been in favor, when the lines were drawn the other way and the Senator was in the minority, of not giving every opportunity for debate.

Now, here is a remarkable case—I appeal to the good sense of the Senators—which has just come up for action. No one has had any chance whatever to examine either of the reports. I have not. I know I can say nothing to illumine the subject, but I am very much interested in it, and I want to help discuss it. I have not seen a shred of testimony, I am not ready, nor can any Senator be ready, to act upon this matter now.

Mr. President, we have been ready for a speech to-day, which would have taken perhaps only an hour or two. If the Senator from Vermont [Mr. DILLINGHAM] had not been ill and had been able to be here he would have been ready to open the debate, as properly he would as representing the majority of the committee.

Now, what we ought to do is not to let any person have his own way in this matter. We are situated here where we want to get at the facts, and want the time to do it, not that we expect to prevent a vote, but we want time to present to the Senate and to the country the reasons why some of us think this is a wrong bill. There are a thousand things that are pushing upon Senators; they have business before the departments, and the thing for us to do, and what we ought to do, is to adjourn over from to-day until Monday, and then let everybody be in readiness with his speech, and let it be understood that Senators shall then be ready to debate this question.

Mr. JONES of Arkansas. Will the Senator allow me a suggestion?

The PRESIDENT pro tempore. Does the Senator from Maine yield to the Senator from Arkansas?

Mr. HALE. Certainly.

Mr. JONES of Arkansas. I did not understand the proposition of the Senator from Pennsylvania [Mr. QUAY] as the Senator from Maine [Mr. HALE] evidently understood it. I did not understand the Senator from Pennsylvania to insist on a day being fixed for a vote, but what I understood him to say was that if there was any assurance that we could have a vote in any reasonable time he would not insist upon the bill being kept constantly before the Senate. We are assured by the chairman of the committee that we shall have debate, but it seems to have been carefully avoided on the part of the Senators who are on that side of the question to make any statement that there should be a vote.

So far as I am concerned, I do not think there ought to be any effort to suppress debate. I believe that every member of the Senate who wishes to discuss the question ought to have an opportunity to do so; but we all know that if both sides on this question are willing to say there shall be a vote in a reasonable time that will mean a good deal; and I believe that was what the Senator from Pennsylvania asked for.

Mr. HALE. Has the Senator ever known, in his large experience, that the Senate has been asked in any way to designate the time when a vote should be taken upon a subject-matter that had not been up? It seems to me to be rather unduly pushing matters that before a question is even up, before it is opened——

Mr. JONES of Arkansas. But a good many months ago the Senate agreed that this bill should come up on Wednesday of this week.

Mr. HALE. It has come up.

Mr. JONES of Arkansas. It has, in a way. It has been made the regular order; but the committee has not been ready to take a solitary step in the matter. While there has been a technical compliance with the agreement, the bill has not been before the Senate in the sense of being ready for consideration and discussion.

Mr. HALE. It could not be before the Senate until yesterday.

Mr. ALDRICH. Will the Senator from Maine allow me?

Mr. HALE. Certainly.

Mr. ALDRICH. The Committee on Territories were instructed to investigate this question, which they have done thoroughly, as I understood. The testimony and report were submitted to the Senate for the first time yesterday, and no Senator here has had an opportunity of even reading it.

Mr. JONES of Arkansas. The report was read to the Senate.

Mr. ALDRICH. The report was read to the Senate, but the testimony has not been read, and no Senator knows what is in it.

Mr. JONES of Arkansas. If the Senator will pardon me a moment further, this is exactly the condition, as I understand it. The Senator from Pennsylvania, or some one, grew apprehensive from this indefinite talk of a vote as being in the future, without a solitary word being said by any man in the Senate that there

should be a vote at any time between now and the 3d of March. So far as I am concerned, if the chairman of the committee, the Senator from Maine, or the Senator from Rhode Island will say that there shall be a vote on this question by the 3d of March, it would be considered quite a boon so far as my own individual feeling is concerned.

Mr. HALE. The Senator knows that as to a measure which has not been launched, in charge of the Senator from Indiana or anybody else, or if the Senator from Arkansas was in charge of a tariff bill, or if he were opposing a tariff bill, he would not want to state that there should be a vote at a certain time before the bill had been discussed. Nobody expects to get a vote on this bill to-day or to-morrow. Here we are confronted with the fact that the Senator who expected to make a speech is ill. To-morrow will be Friday and the next day Saturday. There is no end to the business that Senators have to attend to in the early part of the month of December at the departments. I have never known any instance thus early in a session when we did not adjourn over from Thursday until Monday to give Senators an opportunity to attend to departmental business. On Monday we can come in here and let the Senator from Indiana and the Senator from Pennsylvania fight it out on the bill. That is the fair thing.

Mr. JONES of Arkansas. As suggested by the Senator, I will say that were I in charge of the opposition to a bill and were I satisfied that I was in the minority, that my side would be beaten on a vote, and I was very much in favor of beating the bill, I would resort to exactly the tactics that are now being adopted in regard to this matter.

Mr. HALE. This is as to debate and not as to tactics. The tactics have not yet begun. [Laughter.] We are simply asking now that the Senate do what it invariably does in a case of this kind.

Mr. HOAR. May I interrupt the Senator from Maine to ask a question?

Mr. HALE. Yes.

Mr. HOAR. I have been out of the Chamber, and perhaps what I ask has been stated already; but I understood the Senator just now to say that the Senator who was ready to speak to-day is ill. Now, I ask the Senator from Maine if the Senator who was to speak is not the member of the committee who had charge of opening the debate and explaining the views of the committee to the Senate?

Mr. HALE. It was settled that the Senator from Vermont should open the debate.

Mr. HOAR. I did not know that had been stated.

Mr. HALE. I did not state that.

Mr. President, I am inclined to see what the Senate thinks at this particular stage, under these conditions, of insisting upon going on, by moving that the Senate, when it adjourns to-day, adjourn to meet on Monday next.

Mr. QUAY. I rise to discuss that question, Mr. President.

The PRESIDENT pro tempore. It is not debatable.

Mr. QUAY. It is a motion to adjourn to meet on Monday next, and not a mere motion to adjourn.

The PRESIDENT pro tempore. The Senator from Maine [Mr. HALE] moves that when the Senate adjourn to-day——

Mr. HALE. I will withdraw that motion if the Senator from Pennsylvania desires to speak. We have been talking on in this informal way; I do not want to shut the Senator off, and therefore for the present I withdraw the motion.

Mr. QUAY. My understanding was that gentlemen upon this side of the Chamber and gentlemen upon the other side had agreed that there should be a session to-morrow. Now, what is the exact proposition of the Senator from Indiana—to go on to-morrow?

Mr. BEVERIDGE. No, Mr. President, I have made no proposition. I have simply stated the condition, and stated that it is the expectation of the members of the committee to proceed just as soon as they can get ready to address the Senate. Some of the Senators on the committee are here now, and I have no doubt can speak for themselves. I see other Senators here now who have told me they intended to address the Senate on this bill. I have made no proposition, but I have stated the conditions. Senators will go on at the earliest possible moment they can prepare to do so and without unnecessary delay, but they are not ready to go on now.

Mr. QUAY. Mr. President, this bill has been made the regular order, the unfinished business. My actual intendment when the arrangement was made and the actual agreement made, not probably on this floor, but outside, was that it should continue in order until it was disposed of and be displaced by nothing. That was in June last. From that day to this these gentlemen have been considering this question, and if they are going to debate it in the Senate, they certainly ought to be ready now.

The question is not a new one; it is not unknown to the country or the Senate. For fifty years New Mexico has been hammering here for admission, and for fifty years its clamor has been heard in the Senate almost winter after winter. As to the admission of the other Territories, that question was thoroughly considered in the national conventions of both parties and argued out before the American people, and it is remarkable, it is wonderful, that the Senator from Indiana [Mr. BEVERIDGE], who was a delegate in the Republican national convention of 1900, and the Senator from Maine [Mr. HALE], who is familiar with all that transpired in this body, and the Senator from Massachusetts [Mr. LODGE], who presided in that national convention and put the question on this resolution for the admission of these Territories, is not now ready to proceed to debate the question and has not yet made up his mind whether he was right or not in advocating and supporting that measure in that convention. If the Republican party in their platform can lie to the people about the admission of the Territories, they can lie as to any other proposition in their platforms and are unworthy of popular confidence.

The air is full, Mr. President, of rumors as to the method of the defeat of this bill. It is rife in the corridors around the Senate that it is to be defeated, not by votes, but by obstruction; that from day to day debate is to be postponed or protracted until the patience of the advocates of statehood is wearied out, until one by one its votes are picked off, until other great questions, appropriations, trusts, probably national questions come before the Senate, which will force it to the rear. It is therefore not surprising that those who think with me on this question insist upon using every practicable moment that we can possibly consume in its consideration.

As to the suggestion of the Senator from Massachusetts [Mr. HOAR], that the Senator from Vermont [Mr. DILLINGHAM], who is to be put forward in assertion of the views of the majority on this bill, is unwell and unfit to proceed, that is, of course, an argument that appeals to the personality of every Senator. I do not wish to attempt to force a debate under these circumstances, but I think there ought to be some understanding, or some agreement with the Committee on Territories as to the actual course of proceeding upon this bill. It is now before us, and under the agreement will be before us from day to day, and it ought to be discussed and disposed of as soon as possible. That was the agreement of the Senate.

As to the motion to adjourn over to-morrow, we may as well take a test vote upon that motion as on any, to ascertain what this agreement of the Senate is supposed to have meant. If the Senator wishes the yeas and nays upon the motion, I am willing.

Mr. PROCTOR. Mr. President, as the illness of my colleague [Mr. DILLINGHAM] has been referred to, I would state that for two or three days he has been quite indisposed, and last night he called in a physician. From what the physician says, I think that within two days he will be all right again. He will not be ready to speak to-morrow, but his physician says that his indisposition is such that it will require only a day or two of rest and treatment to remedy.

Mr. FORAKER. Mr. President, I think we can all appreciate the situation, as it has been explained by the Senator from Indiana [Mr. BEVERIDGE]. I think we can all understand that there will really be no time lost in the consideration of this bill if we can now agree that it shall go over until Monday, to which time it is proposed by the Senator from Maine that the Senate shall adjourn when we adjourn to-day. That will give everybody an opportunity to read all of these reports; and I think that is important, for while it is true, as the Senator from Pennsylvania [Mr. QUAY] has stated, that this is an old question with which we are all in a general way familiar, yet it is true that it is now presented somewhat differently from what it has ever been presented before.

We have a very elaborate report, which was read at the desk only yesterday. I heard a part of it. Our attention has been called to the fact that it does not appear to-day in the RECORD. I presume it will appear in the next edition of the RECORD, and the Senator from Indiana confirms me in that opinion. I should like to read that report. I expect to take some part in the discussion of this question. I should like to be familiar with all of the facts as they are to be presented on this hearing. I want to know what is in the report that was read yesterday and what is to be in the other reports that are to be submitted. So I hope the Senator from Pennsylvania will agree that we may adjourn over until Monday, and that this bill shall be taken up on that day with the understanding—and that certainly will be fair—that on Monday we shall be ready to proceed with it and discuss it and continue to discuss it from day to day until we get to a vote in the ordinary way.

Mr. COCKRELL. Mr. President, I notice in the RECORD that the report of the majority of the committee, which was read yesterday, is not printed, but a note by the reporter explains that it is withheld for correction. I do not exactly understand that. When a report has been written and read to the Senate, it ought to appear just as it was read.

Mr. BEVERIDGE. I can enlighten the Senator upon that point, Mr. President. The report, I have no doubt, will appear in to-morrow morning's RECORD. I call the Senator's attention to the fact that there were a large number of tables of figures in that report, which, on account of the limited time that the committee had, were gotten immediately and put in as soon as they came from the Department. I wanted to see that all of those figures were compared and verified, because I do not know whether the stenographer made any mistake or not. They were gotten just as fast as might be. Besides, I did not myself get an opportunity until 12 o'clock last night—I do not know why the reporter put in that it was withheld for revision; but it was his own motion—to look over the proofs, as I always do, and, I presume, as the Senator from Missouri always does. There will not be any delay in the printing of the report, and, further, the report ordered to be printed yesterday, on the suggestion of the Senator from Iowa [Mr. ALLISON], I think, will be done by to-morrow; and even if the proofs are not ready the testimony will, I think, be printed by to-morrow, anyhow. The Printing Office has not gotten through with it.

Mr. COCKRELL. Does the Senator think, then, that the report will be printed so that it can be seen to-morrow?

Mr. BEVERIDGE. Oh, yes; not only in the RECORD, but also in more convenient and larger form.

Mr. COCKRELL. How about the minority report?

Mr. BATE. We will bring that in as soon as possible. The report of the majority of the committee seems to have been kept out of the RECORD for the purpose of revision, but I do not know that there is any authority for doing that. After a report has been read to the Senate, it seems to me, it passes from the hands of the committee and can not be withheld for revision.

Mr. BEVERIDGE. Well, that has been explained as clearly as it can be.

Mr. BATE. Pardon me. As to the minority report, as soon as we get hold of the revised majority report we shall at once go to work upon it, and I think we shall have it ready to print on the next morning or the morning after.

Mr. COCKRELL. Mr. President, I want to make a suggestion to facilitate business. I do not think this is the time to fix a day when this question can be voted upon. I do not think that has ever been done; but we ought to be able to fix now the time when we can get the information which all Senators desire for the discussion of this question.

Mr. BEVERIDGE. I think it will be in print to-morrow.

Mr. COCKRELL. Then I think we ought to adjourn over until Monday. But if we adjourn over until Monday and the minority report has not been made, it will not be in print, and will not even be presented to the Senate, unless leave is given to present it and have it printed in the meantime.

Mr. BATE. I have already gotten leave to print it at any time during the proceedings on this question. I will prepare it as soon as the report of the majority is printed. I think it will be ready in time to appear in Sunday morning's RECORD.

Mr. BEVERIDGE. There will be no objection, so far as we are concerned.

Mr. COCKRELL. I want to have an understanding, so that we shall have no trouble. I do not think it unreasonable under the circumstances to ask that this matter shall be postponed until Monday. There never has been any trouble heretofore to pass any measure that ought to be passed by the Senate, and I think we shall be able to act upon this bill without any trouble when full and fair opportunity has been given to Senators to be heard upon it.

Mr. QUAY. This measure, Mr. President, ought to pass; yet the Senator from Missouri [Mr. COCKRELL] will find that it will not pass without a great deal of trouble, unless I am mistaken about its future progress in this Senate.

I have said, however, that the suggestion of the Senator from Massachusetts was one that appealed to the personality of every Senator. The Senator from Vermont [Mr. DILLINGHAM] who was to lead the debate is sick. There is no question as to whether or not we ought to otherwise proceed; but he is sick abed. If that is the case, and if it is the fact that he can not be in the Senate to-morrow to initiate the debate, I have no objection to the bill going over until Monday afternoon and then coming up in its regular order; but I will expect the opposition to the bill to have some one ready to take the floor on Monday, and I will insist on a vote if there is any further delay.

Mr. HALE. I think the Senator from Pennsylvania is right about that. There ought to be somebody ready to go on with the debate on Monday, and I have no doubt somebody will be found to do so. Therefore, I now move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. QUAY. Will the Senator pardon me a moment?

The PRESIDENT pro tempore. Does the Senator from Maine yield to the Senator from Pennsylvania.

Mr. HALE. Certainly.

Mr. QUAY. While I consented that the bill might go over, I do not want the status of the bill interfered with.

The PRESIDENT pro tempore. The bill will remain the unfinished business if it is in the power of the Chair to keep it there; and the Chair thinks it is.

The question is on the motion of the Senator from Maine [Mr. HALE], that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

Mr. QUAY. I desire to have an order made that the statehood bill be reprinted as it now stands before the Senate.

The PRESIDENT pro tempore. The Senator from Pennsylvania asks for a reprint of the bill known as the statehood bill. Is there objection? The Chair hears none, and the order is made.

ANTHRACITE COAL STRIKE COMMISSION.

Mr. ALLISON. Mr. President, I ask unanimous consent that the regular order may be informally laid aside so that we may proceed with the appropriation bill which was under consideration.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside, and that the Senate proceed to the consideration of House bill 15372. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 15372) to provide for the payment of the expenses and compensation of the Anthracite Coal Strike Commission appointed by the President of the United States at the request of certain coal operators and miners.

The PRESIDENT pro tempore. The pending question is on the amendment submitted by the Senator from Arkansas [Mr. BERRY], which will be stated.

The SECRETARY. On page 2, line 4, after the word "President," it is proposed to insert "not exceeding $12 per day for the time employed;" so as to read:

> And for such compensation of the seven members of said commission, its employees, and the two assistant recorders, as may be fixed by the President, not exceeding $12 per day for the time employed.

Mr. ALLISON. Mr. President, I suggest to the Senator from Arkansas [Mr. BERRY] that as respects the commissioners who are not in the public employ there shall be a fixed sum, and the Senator from Colorado [Mr. TELLER], in the remarks made by him, suggested that the sum ought to be $4,000. I am willing to accept that.

Mr. JONES of Arkansas. At the rate of $4,000?

Mr. ALLISON. No; I mean that they shall have $4,000 each for their services.

Mr. BERRY. Will the Senator permit me to interrupt him?

Mr. ALLISON. Certainly.

Mr. BERRY. If the Senator will let it read "a sum not to exceed $4,000," it seems to me that would be the proper thing to do. Then, if they are engaged only for a very short time, if they got through in a month, the President would have it in his discretion to pay them a less sum than that. If the work of the commission continued for a year, then he would probably pay them the $4,000. I think there would be no objection to that, and I would accept such a provision in lieu of my amendment. At any rate, it seems to be the opinion of Senators on both sides of the Chamber that some amount should be fixed, and it seems to me that the bill ought to read "a sum not to exceed $4,000." If you want to give them a lump sum, then the President can determine. If the commission conclude their labors very soon, I take it for granted he would not pay them so much as $4,000; and I think he ought not to pay them so much as that. I submit to the Senator from Iowa that that would be the proper way to arrange it.

Mr. ALLISON. If the President is to fix the salaries I hope he will be allowed to fix them—I am quite sure his discretion can be relied upon—and I think if we are to fix these salaries we ought to fix them. We should fix some sum. I think $4,000 is a reasonable sum for the work the commissioners will be called upon to do.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Arkansas [Mr. BERRY].

The amendment was rejected.

Mr. ALLISON. I move to insert, "The members of said commission shall receive as compensation $4,000 each for their services."

Mr. BERRY. As I understood the Secretary in reading the bill, although I may have misunderstood him, he read "the seven members." Now, I submit to the Senator that notwithstanding he has stricken out the provision repealing that law, if it is left to read "seven members," then the men who are at present holding office would also get the compensation.

Mr. ALLISON. The word "seven" has been stricken out.

Mr. BERRY. The Secretary read it "seven."

The PRESIDENT pro tempore. No amendment has yet been adopted to the bill.

Mr. ALLISON. I suggest that we proceed regularly to consider the amendments as they appear in the print.

The PRESIDENT pro tempore. The first amendment will be stated.

The SECRETARY. On page 1, line 3, after the word "dollars," it is proposed to insert "or so much thereof as may be necessary;" so as to read:

That the sum of $50,000, or so much thereof as may be necessary, is hereby appropriated, etc.

The amendment was agreed to.

The next amendment was, on page 1, to strike out, at the end of line 12, the word "seven;" on page 2, line 1, after the word "the," to strike out "two;" and in line 2, after the word "recorders," to insert "who are not officers or clerks in the civil or military service of the Government;" so as to read:

And for such compensation of the members of said commission, its employees, and the assistant recorders, who are not officers or clerks in the civil or military service of the Government, as may be fixed by the President.

The amendment was agreed to.

The next amendment was, on page 2, line 4, after the word "President," to strike out:

Such compensation to be paid notwithstanding the provisions of sections 1763, 1764, and 1765 of the Revised Statutes, or section 3 of the act of June 20, 1874, chapter 328.

The PRESIDENT pro tempore. Does the Senator from Iowa wish to offer an amendment to the amendment?

Mr. ALLISON. The amendment to strike out, beginning in line 4 and ending in line 8 with the word "twenty-eight," should be agreed to. That strikes out the provision inserted by the House.

The amendment was agreed to.

Mr. ALLISON. Now, if I can have the approval of the Senate, I will ask that, in line 1, page 2, the words "its employees and the two assistant recorders" be stricken out.

The PRESIDENT pro tempore. On page 2, lines 1 and 2, the word "two" has already been stricken out. Does the Senator from Iowa offer an amendment?

Mr. ALLISON. What I wish to do is to fix the salaries of the members of the commission who are not Government officers. So I move to strike out those words for the time being and will have them reinserted elsewhere.

The PRESIDENT pro tempore. The Senator from Iowa offers an amendment, which will be stated.

The SECRETARY. On page 2, line 1, after the word "commission," it is proposed to strike out the words "its employees and the assistant recorders."

The amendment was agreed to.

Mr. ALLISON. Then I move to strike out of the amendment as it stands now the words "or clerks in the civil or military service of the Government."

The amendment was agreed to.

Mr. ALLISON. I move to insert "$4,000 each" after the word "commission," in line 1, page 2. Then I will arrange the subsequent phraseology to meet that amendment, if it is agreed to.

The SECRETARY. On page 2, line 1, after the word "commission," it is proposed to insert "$4,000 each."

The amendment was agreed to.

Mr. ALLISON. That does not complete it. Is that agreed to?

Mr. BERRY. I do not agree to it, but the Senate has agreed to it.

Mr. COCKRELL. I should like to suggest to the Senator from Iowa that on the first page, line 12, the last line, where it says "and for such compensation," the word "such" be stricken out.

Mr. ALLISON. Let the word "such" be stricken out.

Mr. COCKRELL. And let the word "the" be inserted; so as to read "for the compensation."

Mr. ALLISON. Yes; "for the compensation."

The PRESIDENT pro tempore. Without objection, that amendment will be agreed to. The amendment in lines 2 and 3, on page 2, has been agreed to, and is now, in Committee of the Whole, a part of the bill.

Mr. ALLISON. It should be modified so as to read:

And for the compensation of the members of said commission who are not officers in the civil or military service of the Government, $4,000 each.

I move to insert those words after the word "commission."

The PRESIDENT pro tempore. If there be no objection, that amendment will be agreed to.

Mr. ALLISON. Then it will read:

And for the compensation of the members of said commission who are not officers in the civil or military service of the Government, $4,000 each.

The PRESIDENT pro tempore. That has been agreed to.

Mr. ALLISON. Then I move to amend the bill by inserting after the words "four thousand dollars each" the words:

And for the employees of the said commission who are not officers or clerks in the civil or military service of the Government such compensation as may be fixed by the President—

or "by the commission." Perhaps the commission might fix the pay of the minor officers. However, I suggest that it be left where it is, so that the President will fix it.

The amendment was agreed to.

Mr. FORAKER. I think the Senator from Iowa having this bill in charge made a very proper suggestion a moment ago, and I am sorry he did not adhere to it, namely, that the compensation of all the subordinate officials should be fixed by the commission rather than that the fixing of their compensation should be imposed upon the President. It seems to me they would know a great deal more about what the compensation ought to be, and that the President ought to be relieved from a matter of that kind.

Mr. ALLISON. I do not like to take the responsibility of so changing the bill without the suggestion of the committee. However, I am indifferent. I think perhaps the commission would do quite as well without burdening the President.

Mr. FORAKER. Yes; the Senator had the expression a moment ago, or I would formally offer an amendment. I move that the bill be amended as suggested by the Senator a moment ago, so as to put that duty upon the commission.

Mr. COCKRELL. Let it read "as may be fixed by said commission."

Mr. FORAKER. Yes.

Mr. COCKRELL. Strike out "President" and insert "said commission."

Mr. ALLISON. I will make that amendment, or accept it if it is offered by the Senator from Ohio.

Mr. FORAKER. I offer the amendment.

The PRESIDENT pro tempore. Without objection, the amendment will be agreed to. Will the Secretary please state it, so that there may be no mistake?

Mr. ALLISON. Let it be read as amended.

The SECRETARY. In line 2, page 4, strike out the word "President" and insert "said commission;" so that the clause will read:

As may be fixed by the said commission.

The PRESIDENT pro tempore. The amendment is agreed to.

Mr. COCKRELL. The proviso has not been acted upon.

The PRESIDENT pro tempore. No. It has not been acted upon.

Mr. COCKRELL. I hope the Senator will put that down to $10.

Mr. ALLISON. I ask that the bill may be read, beginning with line 12, on page 1.

The Secretary read as follows:

And for the compensation of the members of said commission who are not officers in the civil or military service of the Government, $4,000 each, and for the employees of the said commission who are not officers or clerks in the civil or military service of the Government such compensation as may be fixed by the said commission.

Mr. COCKRELL. The proviso comes next.

Mr. ALLISON. That is the text down to the proviso. Now I ask that the proviso may be read.

The Secretary read as follows:

Provided, That the members of said commission shall be allowed the sum of $15 per day each, the assistant recorders $10 per day each, and the other employees of the commission in the service of the Government $6 per day each, while employed in the work of the commission, in lieu of traveling and all other expenses.

Mr. COCKRELL. I move to strike out "fifteen" and insert "ten."

Mr. ALLISON. I ask the Secretary to reread the last clause of that proviso.

The Secretary again read the proviso.

The PRESIDENT pro tempore. The Senator from Missouri moves to amend by striking out, in line 10, "fifteen" and inserting "ten."

Mr. ALLISON. The Senator from Missouri?

Mr. COCKRELL. I made that motion, and I hope it will prevail, too. I wish the Senator from Iowa would accept the amendment, because I think it would be an outrage to pass a bill providing for any other amount. It is the highest amount ever paid for the expenses of any one in the Government service.

Mr. BAILEY. I suggest, Mr. President, that the expenses ought to be commensurate with the salary. If you are going to give a man $4,000 for probably two months' work, he ought to be permitted to spend $15 a day. I think, myself, that $4,000 is an outrageous allowance.

Mr. BERRY. So do I.

Mr. ALLISON. The observation of my friend the Senator from Texas persuades me to leave this question to the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Missouri [Mr. COCKRELL].

The amendment was agreed to.

Mr. FORAKER. Is the proviso, since the amendment has been adopted, in form so that it can go into the bill?

The PRESIDENT pro tempore. An amendment has just been agreed to, on motion of the Senator from Missouri, striking out "fifteen" and inserting "ten." The rest of the proviso stands.

Mr. FORAKER. The rest of it stands, but there is a repetition. Now, as it stands the allowance per day for expenses would be the same to the commissioners as to all the others——

The PRESIDENT pro tempore. It would be the same to the assistant recorders.

Mr. FORAKER. Except one class. I should think the proviso might be improved, now that the same allowance is to be made to the commissioners as to the recorders. Does not the Senator from Iowa want to change the proviso?

Mr. ALLISON. I think it would perhaps be a little better not to separate the assistant recorders.

Mr. COCKRELL. Not to separate the men who are officials.

Mr. ALLISON. But if the proviso can again be read I will perhaps suggest a modification.

Mr. FORAKER. It should read:

Provided, That the members of said commission and the assistant recorders shall be allowed the sum of $10 per day each.

The Secretary read as follows:

Provided, That the members of said commission shall be allowed the sum of $10 per day each and the assistant recorders $10 per day.

Mr. ALLISON. I accept the suggestion of the Senator from Ohio.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It will then read:

Provided, That the members of said commission and the assistant recorders shall be allowed the sum of $10 per day each.

Mr. ALLISON. That is right.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. DANIEL. I desire to offer an amendment to come in after line 18, on page 2.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Virginia will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

It is hereby further provided that no officer or employee of the United States, and no Senator or Member of the House of Representatives shall be assignable to service in any commission or office, or shall have any duties imposed upon him other than those imposed by law.

Mr. DANIEL. Mr. President, I do not view or consider the action of the President in reference to the coal strike and the appointment of a commission in any spirit of criticism whatsoever. I believe it is the general sentiment of this country—it is certainly my own—that the President acted with great wisdom and discretion, and instead of criticising him I commend him for the good sense and patriotism which no doubt dictated his conduct.

Without intending to be at all critical, I would, however, make the remark that I regretted that any officer of the United States was included among those selected by him to consider this matter. I believe that when a citizen of the United States is elected by the people or by the general assembly or the legislative body of a State or is appointed under executive authority to fill any particular function whose duties are defined by the nature of our Government, its Constitution and laws, he should be dedicated solely to the discharge of those duties.

There is no office under this Government and there is no representative relation to this Government that has not imposed upon it duties and responsibilities great enough to absorb all the intellect and all the energies that any one man can bring to their fulfillment.

Apart from that fact there is an abundance of intellect, of character, of learning, and of wisdom among the people of this country, outside of those who hold any kind of position or official relation to the Government, to fill every office that exists or which may be created. Indeed, such is the genius and such the character of our people that there is an embarrassment of riches in the offerings or in the possibilities of places which it is utterly beyond the power of appointment to reach or even but partially to consider. I do not blame the President or apply any term of reproach to him because he selected officials. It is a good-natured habit that has grown upon all Administrations. Its promptings have in themselves been, as a rule, and for aught I know, altogether pure and just. Nevertheless, it seems to me to be a bad practice, and it ought to be forbidden by law.

The executive authority should know, and all of those who are in the employments to which they have been appointed should at the same time know, that they are dedicated to the discharge of those duties which the law has imposed upon them. I have therefore offered an amendment to the pending bill to declare by law that no civil, military, or naval officer of the United States and no employee of the United States shall be assignable to other duties than those which the law has imposed and put upon him.

It may be that in cases the compensation is small. The greater officers and functionaries of our Government do not get large compensation. At the same time, Mr. President, they hold positions of honor, and the time has not arrived in our Government—I trust it may never arrive—when honor will not be considered in itself a great reward for those who desire and those who seek it. And those who seek great honor and accept it must be content with that portion which has been allotted to them by their own seeking and by their own consent.

I hope, Mr. President, that this amendment will be adopted. It may be said that it might more appropriately come in a statute independent to itself. Such matters, Mr. President, are difficult of passage, and it is timely and apropos in connection with this matter. This is a case in which there is a judge of a great court, in which there is a general officer of the Army, in which there is a head of a bureau, and one other officer I know, who have been taken away from the bench, from the bureau, and have had duties imposed upon them which are totally disconnected with their professional lives. Those of them who have active duties to perform can not perform them while this responsibility is with them, and they ought not to have brought to them the condition where they may say "noblesse oblige"—"I am obliged to accept this place because of the importance of the position. The dignity of the appointment and the importance of the work are such that I feel called upon to accept."

There is not much remuneration in such places as these for gentlemen of the character and position of those who are naturally called to fill them, but it is a diversion from that which they have made their life's work and which the Government and the people have alike put upon them to do.

Judges of the Supreme Court have been translated to foreign nations. Senators upon this floor, where there can be at no time more than two representatives of a State, have had such calls made upon them and have been translated afar from the Government. I am not speaking words of reproach for them, nor do I intend to deliver criticism in any direction, except upon the practice, which is in itself not to be commended, but, on the contrary, ought to be deprecated and forbidden by law.

For these reasons, Mr. President, I think it is appropriate to put in this statute that plain and distinct provision; and I do it out of a mind that is not bent in any degree upon criticism of the Administration for that which in the main was an honorable, a just, and, in my judgment, a wise act on the part of the President.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Virginia.

Mr. PLATT of Connecticut. I should like to have it read again.

The PRESIDENT pro tempore. The amendment will again be read.

The SECRETARY. It is proposed to add at the end of the bill the following:

It is hereby further provided that no officer or employee of the United States and no Senator or Member of the House of Representatives shall be assignable to service in any commission or office or shall have any duties imposed upon him other than those imposed by law.

Mr. PLATT of Connecticut. Mr. President, I do not now know how other Senators may feel about the matter, but I shall vote against this amendment. I do not think it is germane to this proposition, in the first place. In the second place, I do not think it is a wise proposition. If I may be permitted to express my opinion, I think the President's selection of Judge Gray was the most appropriate that could have been made; it was almost a necessary one to make. While it is true, I believe, that judges are not included in the amendment——

Mr. DANIEL. Yes; they are.

Mr. PLATT of Connecticut. Are they? I understand, then, that in case a precisely similar crisis and emergency should arise hereafter it might be impossible to meet that crisis and emergency except by doing just what the President did—appointing a judge of the standing and character of Judge Gray, in whom everybody connected with the controversy had confidence.

Now, Mr. President, I believe it would be a very unwise matter so to tie the hands of the President of the United States that in a great emergency, arising where a Senator or a judge was admitted to be the one man who could be selected to perform the most efficient service for the United States he could not be appointed.

I agree that it is a practice which ought not to be enlarged, but I am not willing to say that in no condition which may arise in this country hereafter, in no great question which may arise for settlement, the one man who in the judgment not only of the President, but of all the people of the United States, is most fitted to meet that crisis and to compose that difficulty can not be appointed because he happens to be a member of the Senate or House of Representatives.

I do not wish to recur to the past. I would not wish to put it out of the power of the President of the United States, if a great question arose like that which resulted in sending the Senator from Alabama [Mr. MORGAN] to Paris, that it could not be done. I believe when Senators come to think of it they will see that in the future of this country it is quite likely that circumstances will arise which will make it not only justifiable and proper, but almost essential and necessary, that some person, a member of the Senate or a member of the House of Representatives, or a judge of the Supreme Court of the United States, or a judge of some district or circuit court, shall be appointed to bring, by reason of his peculiar characteristics and ability, the best possible result out of those circumstances.

I do not know how the Senate may feel about it, but I wish to vote against this amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Virginia [Mr. DANIEL]. [Putting the question.] The noes appear to have it.

Mr. TILLMAN. We had just as well have the yeas and nays on it.

Mr. ALLISON. I hope the Senator from South Carolina will not insist on calling for the yeas and nays. He will have ample opportunity to test the sense of the Senate on this question.

Mr. TILLMAN. No; we shall not have an opportunity to test the sense of the Senate on this peculiar proposition, because it is not likely that we are going to have any independent bill, and as we are dealing with the appointment by the President of men already occupying high official position who have duties to perform, and under this appointment they neglect them, I think we can establish the principle which the Senator from Virginia contended for so cogently—that it is unwise. If we simply put a mark against such things in the future, there are plenty of our citizens of ability, as the Senator has shown and as we all know, who are able to fill the places on all commissions.

Mr. BERRY. And are willing.

Mr. TILLMAN. And are willing and anxious. I really do not see why we could not, as a lawmaking body, now say that we think that it is unwise and improper. I should like to have the yeas and nays on the amendment if I can get a second.

Mr. DANIEL. I second it.

Mr. ALLISON. In a general way I am in sympathy with the proposition of the Senator from Virginia. Perhaps the rule ought to be observed that members of either House or persons holding high judicial office shall not be selected to serve on commissions. But the Senator from Connecticut [Mr. PLATT] has very well stated that exceptional cases may arise. Now, this is an exceptional case, and I do not want to impliedly censure either the President or Judge Gray, who holds the high position which he occupies, by saying that he ought not to have been appointed on this commission and by giving other Senators an opportunity of saying that he is not doing a wise thing by staying upon the commission, because that will be the implication. I think the controversy has now assumed such a character that it is absolutely essential to the conclusion of the business that every gentleman who has accepted a place on the commission shall continue to serve on it until the matter is concluded.

I do not think the proposition is germane to the pending bill, and if it is to be considered it ought to be considered on fuller debate and with such modifications and changes as debate will disclose ought to be made. I hope the Senator from Virginia will withdraw his amendment. I did not suppose, as I listened to the viva voce taken, that it was generally regarded as a proper amendment to be put upon this bill, and I hope the Senator from Virginia will withdraw it. I think as a separate and independent measure I should vote for it, with some modification.

Mr. TILLMAN. Mr. President, if we could ever reach a time or a condition in which such legislation as this could be proposed without some condition antagonistic existing—in other words, if we could get around appearing to slap the President or to criticise his action, I would be willing to let the matter go.

Of course I understand that the amendment will be voted down; but Senators will remember that when three members of this body—its most distinguished members, members of the highest character and competence and all that kind of thing—were appointed on the Paris Peace Commission, this same question came up, and a resolution or a bill or an amendment of some kind was presented in this body by the Senator from Massachusetts [Mr. HOAR], if I recollect correctly, and I think possibly voted on. But it must have failed to become a law, and it seems that we will continue to have Presidents go into official positions and take men to occupy places on these commissions, which are growing in number every year, and the fact that the Senate then failed to take any action and the fact that the Senate now will fail to take any action is notice to the Executive that he may continue to detail judges, to detail generals, to detail this, that, and the other officer to perform duties entirely foreign to his official position, and necessarily causing the neglect of his official duties.

I say that condition is one which is unhealthy, and I do not see why we could not act right now and here—without any criticism of the President, because everybody recognizes the importance and apparent necessity of his action and no one is disposed to find any fault with it so far as I see, but we could in as kind a way as possible—if we can do it kindly at all—let him understand that men can not be detailed out of their official positions to fill places on commissions when, as has been pointed out, there are so many people who are fully competent who are not in official life and who would be glad to get the place for the prominence it gives them. I do not say that Judge Gray, whom I admire and respect, because we were here together in friendly association for several years, was the only man in this part of the world who could have gone on this commission, and who had the absolute confidence of every man in the United States.

Mr. PLATT of Connecticut. May I ask the Senator a question?

Mr. TILLMAN. Certainly.

Mr. PLATT of Connecticut. He knows Judge Gray? He knew him as Senator Gray?

Mr. TILLMAN. Yes.

Mr. PLATT of Connecticut. He knows of his high character, and how sensitive he is, and properly so. What does he think Judge Gray would do if we should adopt this amendment here? What does he think he might do? How would the Senator himself feel if he were upon the commission and the Senate of the United States should pass such an amendment? Would he not feel that he really ought to withdraw from the Commission?

Mr. TILLMAN. Surely——

Mr. PLATT of Connecticut. Well——

Mr. TILLMAN. Hold on now.

Mr. PLATT of Connecticut. Will not Judge Gray feel so?

Mr. TILLMAN. But Judge Gray is not responsible for being on the commission, except that possibly he made a mistake in accepting the place.

The question with us is whether or not it is wise and proper for this Government to grow into the habit of having the Executive take men who are in high official life and detail them out of their sphere, away from their recognized duties, and put them at work with which they have no other concern than that which obtains from the appointment. Are the regular judicial duties of Judge Gray going to be performed by somebody else, or will they be neglected?

Now, that is the situation, and we should consider whether we have an autocratic feeling growing among us as a people, or, rather, whether we are recognizing the existence of an autocracy which ignores what some of us regard as propriety. Of course, everybody here will have his own opinion as to the propriety or impropriety of this thing. Judge Gray's peculiar personal fitness may have suggested him, and the question of his judicial position and duties may not have occurred to the President.

I would, if it were possible, expressly declare that no criticism of the President's action is intended. I do not see how we could adopt the amendment without some implied objection to the practice. But after this bill has gone through will we have any Senators on the other side who will bring in an independent statute on its own merits which will deal with the question of taking officials from their places and putting them to other work extraneous and outside of their regular duties? No; we have no idea that such a thing will come. And so it will go on; this precedent and the one in regard to the appointment of our colleagues here on the Paris Commission, etc., will continue, and we shall have this practice to grow indefinitely.

Mr. SPOONER. Mr. President, I hope the Senator from Virginia [Mr. DANIEL] will not press this proposition as an amendment to the pending bill. I have, I am frank to say, very much sympathy with his reasons and his position, on general principles, although from the foundation of the Government it has been the practice to appoint Senators and others in official life to the discharge of duties outside of the particular sphere to which they have been assigned by the people, the President not even excluding judges.

I expressed here once my willingness to vote for a bill which would regulate this matter. There have been no commissions like this, if I understand it, and my friend from South Carolina [Mr. TILLMAN] is mistaken if he supposes that this so-called commission falls within the category of the "commissions provided for so often by Congress."

Mr. TILLMAN. If the Senator had been in the Chamber this morning he would have had considerable more light in regard to it.

Mr. SPOONER. Perhaps, and perhaps not.

Mr. TILLMAN. Well, I do not know that he would have received any light from so humble a source as I——

Mr. SPOONER. I do not presume that the Senator knows——

Mr. TILLMAN. But he would have had some knowledge of what has been under discussion here rather extensively to-day, and would at least be discussing this particular phase of the question with more intelligence.

Mr. SPOONER. Well, perhaps if the Senator had waited until I had stated my position he would be in a better position to pass intelligently upon my intelligence. I regret I was not in my seat this forenoon to have heard the Senator from South Carolina. This particular designation, or these designations, if I may use the plural, were made, as has been said here, in an exigency. I do not know of any law under which the President intervened in the matter. This is not a commission authorized by law.

Mr. TILLMAN. We all recognize that.

Mr. SPOONER. In any ordinary matter the President, of course, would not have intervened. Here was a menace to the whole country, involving not simply money losses, not simply a possible paralysis of commerce and of the industries of the country, but involving loss of life, hardship, and suffering throughout the whole country and among all classes of our people.

The President, in his statement to the parties to the controversy when they came before him on his invitation, informed them accurately that he had no authority to speak from the standpoint of either side—the operators, on the one hand, or the miners, on the other—but calling their attention to the existence of a third party vitally interested——

Mr. MORGAN. If the Senator will allow me, I wish to say that the President, as I understood it at the time, distinctly announced that he had no official connection with the controversy.

Mr. SPOONER. I have so stated.

Mr. MORGAN. None whatever.

Mr. SPOONER. I have so stated.

Mr. TILLMAN. And, Mr. President——

Mr. SPOONER. Allow me to finish my sentence. The President, stating that he acted in the interest of the people who were not only vitally interested in it, but with the approach of the winter were awfully menaced by it, brought the matter to their attention, and his courage in that respect, with the public sentiment of 80,000,000 people behind him, brought acquiescence. These men never could have agreed, undoubtedly, upon arbitrators, but they were willing under the circumstances to submit the controversy within limits to gentlemen named by the distinguished gentleman who is President.

Mr. PLATT of Connecticut. An arbitration.

Mr. SPOONER. An arbitration only.

Mr. TILLMAN. Now, Mr. President——

Mr. SPOONER. Congress creates commissions. It was the mere designation of these gentlemen as arbitrators or rather an invitation to act, for they could not be detailed. The President had no more power to set a judge or any other public officer at this work by detail than he had to detail the Senator from South Carolina or myself to it.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. In a moment. But he invited these gentlemen, who were agreeable entirely in this emergency to the parties to the controversy, to hear the statements and the evidence and the arguments and report their conclusion as to what was fair between them; and by that they agreed to abide, and dissipated the blackest cloud of that sort, Mr. President, which has hung over this people since I have lived.

Mr. TILLMAN. I hope the Senator will let me get in some time.

Mr. SPOONER. Well, I yield to the Senator.

Mr. TILLMAN. If the Senator had been present this morning——

Mr. SPOONER. I was not.

Mr. TILLMAN. And therefore you have been defending the President here where every one of us has acknowledged that the conditions were of a character to warrant his action. We have commended him, and we are only discussing the action of Congress in coming forward now and by a legal statute setting a precedent which will return to pester us.

Mr. SPOONER. No, Mr. President, my friend is mistaken; I am not defending the President, because the President needs nowhere in the United States—North or South, East or West, here or anywhere else—any defense for what he did. I am simply endeavoring to show that this is not a bill in connection with which we should regulate the appointment by the President of public officials to commissions created by Congress.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. Now, if the Senator will permit me, I wish to get through. I will be through in a minute.

Mr. TILLMAN. But the Senator is unfair to me.

Mr. SPOONER. I yield, then, if the Senator thinks that.

Mr. TILLMAN. The point I wish to ask the Senator to illuminate is how it is that a high officer of the Army accepts an invitation from the President to neglect his official duties and go about something else, and how does another head of a bureau accept an invitation from the President to neglect his official duties and go about another matter? If they are not detailed in actuality, they are detailed in essence, and the Senator need not quibble.

Mr. SPOONER. Mr. President, that word is not courteous.

Mr. TILLMAN. I beg the Senator's pardon. I do not want any controversy with the Senator from Wisconsin, whom I almost love, and all that kind of thing [laughter]; but he goes about the thing, you know, in such an unfair way sometimes, and jumps to conclusions, that I naturally resent the soft imputations which he casts on me.

Mr. SPOONER. Is the Senator through?

Mr. TILLMAN. Oh, for the present. I do not know; you may stir me up again. [Laughter.]

Mr. SPOONER. I am not going to make the Senator quit talking. I know the Senator too well to make such a large application of my question.

Now, the Army officer who is on this arbitration commission—I say it is not——

Mr. TILLMAN. I only take the phraseology of the bill.

Mr. SPOONER. I do not care about that. I am trying to get at the facts. You may call it a commission. General Wilson is the Army officer to whom the Senator referred. He is on the retired list. He is not absent from any duty whatever. He accepted an invitation from the President, being agreeable to the parties and a fit man to act as an arbitrator in this emergency, in which the public was so largely interested. Judge Gray was invited. He was at perfect liberty technically to decline, but, Mr. President, being agreeable to the parties to this controversy and keeping in mind the nature of the controversy and its relation to the people of the United States, I doubt if he was at liberty morally to decline.

Mr. TILLMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Of course.

Mr. TILLMAN. Will the Senator quit discussing the personal phase of this proposition and bringing in the personality of the various members of the commission, on whom we are all agreed and whom we respect and whose opinion we will attach great weight to? Will he just leave all that out and come to the plain, concrete proposition as to whether it was right and proper and a good practice to have inaugurated and continued and broadened and deepened to have the President appoint men who are already filling official places and have official duties to go about something else?

Now, that is the whole thing involved in this amendment, and there is nothing else to it; and the personality of Judge Gray or of any member of the commission, or any reflection on the President's course, or anything connected with the strike is not really at issue. It is merely the settlement once for all of the proposition that we as a part of the legislative body of this country think that there are enough other citizens outside of the official world who can do all this kind of work without detailing or inviting or employing officials.

Mr. SPOONER. Mr. President, the Senator from South Carolina astonishes me. He always astonishes me when he makes so obvious a mistake as he has just made. I have uttered no word about the characteristics or the qualities or the reputation of any man designated by the President to act as an arbitrator in this matter. All I have said as to General Wilson was, in reply to the Senator from South Carolina, that he was a retired officer, and therefore not neglecting any public duties by accepting and discharging the duty as an arbitrator.

I was saying that Judge Gray, or almost any other man, I think, invited by the President of the United States in such an exigency, and found to be agreeable to the parties to the controversy, could hardly have felt himself at liberty to decline. It is not a new thing for judges to act as arbitrators; it has not been considered unjudicial. It may, perhaps, be subject to the narrow criticism that for the moment, or the day, or the week the judge is absent from the bench or absent from his chambers, but in this case the function is one that is judicial, essentially so.

I remember one case in which Justice Miller of the Supreme Court of the United States acted as an arbitrator, and made his award by the common consent of the parties. These men were not appointed by the President in the sense in which we use the word in laws or in which it is used in the Constitution. Here the parties agreed to submit their controversy to arbitrators, who should be chosen by Theodore Roosevelt, President of the United States. If we create a commission the President may appoint men to that commission.

I would vote with qualifications for this proposition as applied to such a commission; but this is no case of that kind. This amendment is simply a proposition that hereafter, should a case of this kind arise and the President in an exigency be put where he must find men who will act as arbitrators, who can act agreeably to the wishes of both parties to a great controversy affecting the public, he shall not appoint a Federal judge or any other man in public position under the United States. I do not favor it.

It seems to me—I may be wrong about it—that we ought not while Judge Gray is discharging this really self-imposed

function—he was not detailed or appointed, he was invited—as an arbitrator in this very important matter to pass as an amendment to this bill a Congressional declaration that he has no business to be discharging that duty or that there is impropriety in it.

Mr. BAILEY. Will the Senator allow me?

The PRESIDING OFFICER (Mr. PERKINS in the chair). Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. SPOONER. Certainly.

Mr. BAILEY. Mr. President, I agree with the Senator from Wisconsin that until this bill becomes a law the gentlemen who are arbitrating this question have no official character. The coal operators and the operatives simply agreed to submit the issues between them to a number of arbitrators named by the President of the United States. They might have agreed with equal propriety and equal safety to have submitted those issues to arbitrators named by the bishop of some church, or any other man whose character and standing assured an impartial selection of arbitrators. In that view of the matter this amendment would not really restrain the President, because he simply names men, not officially, but really unofficially designates them.

I rose to suggest—not to the Senator from Wisconsin, but to the chairman of the committee—that it would be an excellent idea to conform this bill to these facts, and to describe these gentlemen as arbitrators rather than as commissioners, because the law creates commissions, and commissioners are generally officials. I should much prefer, indeed, that they should be properly described as mere arbitrators selected by a disinterested person without regard to his office to perform a great service in allaying excitement and relieving distress that would have come out of a prolonged strike; and I should be willing to see the expenses paid out of the public Treasury, but I will not vote for a proposition to recognize the right of the President to create a quasi-official body without authority of law.

Mr. SPOONER. Well, Mr. President, I will say to my friend from Texas that before I rose I had expressed to the Senator from Iowa [Mr. ALLISON] the same view which the Senator from Texas now does. In view of the fact that this is a unique case, one which we all hope will not occur again in the country, there being no action of Congress behind it, I hope the Senator from Virginia will put his proposition in the form of a bill, such a one as the Senator from Missouri [Mr. VEST] introduced at a former session of Congress, which I was for, and not press it as to this particular appropriation to which it has not relevancy.

Mr. BACON. Mr. President, I am very thoroughly in sympathy with the purpose of the Senator from Virginia [Mr. DANIEL], and would certainly support a bill which would enact into a law that which he seeks to accomplish. I agree, however, with the Senator from Wisconsin [Mr. SPOONER] and with the suggestion of the Senator from Iowa [Mr. ALLISON], that there may be reasons why the amendment is not entirely appropriate on this particular occasion.

It is true, as stated by the Senator from Wisconsin, that this is not properly a commission; it is not the kind of commission to service upon which officials have heretofore been detailed; it is not a commission which has any powers; it is not a commission which can make any award which can be enforced in law. It is a purely voluntary body of men, selected by one who did not claim any legal authority to constitute it, and to the decision of which the parties have voluntarily consented they will submit. That is all there is in it.

So far as the creation of a commission which shall be clothed with legal power is concerned, I think there can be no principle which is rested upon a more solid foundation than that which would deny to the President the right to detail officials of the Government for service upon such a commission. Although, as stated in this debate, from the very earliest history of the Government that has been the practice, I have always thought it was a bad practice, a vicious practice, and to the extent of the opportunities which I have had I have endeavored to give my influence against it.

Something has been said here about a bill or resolution—I have forgotten which it was—in reference to this subject which was introduced by the senior Senator from Massachusetts [Mr. HOAR]. That was immediately after the return of the Spanish Treaty Commission, and was in substance the same as the amendment which is now offered by the Senator from Virginia [Mr. DANIEL].

That was referred to the Judiciary Committee, of which the Senator from Wisconsin [Mr. SPOONER], was then a member; and without betraying any secrets, or disclosing improperly what occurred in that committee, I desire to say, and I think I can do so with propriety, that a large majority of that committee favored what was sought to be accomplished by that bill or resolution; but no action was ever taken in the Senate, because the committee thought it was better to give a direction, which, while it would accomplish the purpose, would not have the effect of seeming to make any implied censure either upon the President or upon those who have served upon any of the commissions which had been within the recent past created. I know the conclusion was reached by the committee that there would be in the future no such appointments made, and there have been none since. I do not regard the appointment of this Anthracite Coal Strike Commission as a violation of the principle which was sought to be accomplished by the Hoar amendment.

Mr. President, I think there is a great deal in the suggestion made by the Senator from Iowa [Mr. ALLISON] and the Senator from Wisconsin [Mr. SPOONER] as to the personal application in this particular case which will be made of the action taken by the Senate if this amendment should be adopted. I will state a fact, which will doubtless be recalled by all Senators, and that is, not simply that Judge Gray was invited—and I think that term is proper, for it was simply an invitation—not only was he invited, but the coal miners in their proposition—because the proposition for arbitration originated with them—suggested that they desired that there should be upon the commission one of the judges of the Federal court of this particular circuit or of some adjoining circuit. Am I correct in that? I am quite sure I am.

Mr. ALLISON. I will say that it was either the coal miners or the coal operators.

Mr. BACON. It was the coal miners.

Mr. ALLISON. Very well. It was part of the proposition that a judge of the circuit court of Pennsylvania, or a member of the supreme bench of the State of Pennsylvania, should be selected.

Mr. BACON. Yes. The proposition did not originate with the President of the United States. It originated with the coal miners. Of course they were deeply interested in having not only impartial men, but able men to pass upon questions so vital to them, and when the question was up whether or not there should be such a commission appointed, or board of arbitrators, if that term is preferred, the stipulation was made by the coal miners that one of this board of arbitrators should be a judge of the Federal court within certain districts or circuits.

I repeat, sir, that so far as concerns the creation of a commission which is clothed with the power to arbitrate under a law, or to carry a decision into execution, or to negotiate a treaty, I most heartily agree with the proposition contained in the amendment—that the President ought not to be permitted to appoint any official of any department of the Government to the performance of such a duty; but this so-called commission was an entirely different thing, and I think there is great point in the suggestion that at this particular time for us to adopt this amendment would necessarily be construed by Judge Gray into the expression of an opinion by the Senate that there was an impropriety in his appointment and an impropriety in his serving; whereas I do not think there is either. I would think so if it were properly a commission, but I do not so regard this board.

In his opposition to this amendment the Senator from Connecticut [Mr. PLATT] went much further than I would go. I entirely agree with the view suggested by the Senator from Wisconsin, that this is not a commission clothed with any power, but that it is a body of men selected with a view to their intervening to avert what all considered to have been a great impending calamity; clothed with no power to make any award, except so far as it might be consented to by the parties; with no power to enforce it; and all we do in the way of compensation is to do that which I think we are morally and properly bound to do, but not legally bound to do; and my position is based on this view. But in discussing this question the Senator from Connecticut went a great deal further than I do, because he attacked the general proposition contained in the amendment offered by the Senator from Virginia [Mr. DANIEL]; and I think, if I recollect aright, the views now presented by the Senator were the same as those expressed by him at the time the Hoar resolution or bill was before the Senate.

I do not agree that there can be any emergency where it is of such importance that an official either of the executive, judicial, or legislative department shall be subject to be detailed by the President of the United States to other duties than those which are imposed upon him by law. I thought at the time of the remark of the Senator that in case we should have in the near future some complications with reference to Cuba it would make it very importent that the Senator from Connecticut, who has been the chairman of the Committee on Relations with Cuba, should be connected with it, and I recognize that; but that can be accomplished through his representation of this Senate as a committeeman as thoroughly as it can be by his representation of the executive department as a commissioner.

Mr. President, we all know Judge Gray. Many of us served with him in this Chamber. There is no man more sensitive than he to any suggestion of impropriety. I think he is now in a position where he should not be embarrassed by any such suggestion. I think it is important that the present board should proceed with

their work if there is any further work remaining for them to do, and while I am thoroughly in accord with the proposition as to the impropriety of the detailing of officials of the Government by the President to serve upon commissions, I think this is an occasion, Mr. President, which ought not to be availed of for the purpose of giving expression to that view.

I hope with the Senator from Wisconsin that we may not be called upon at this time to vote upon this proposition. I said early in the day, Mr. President, that I hoped upon this occasion we might vote upon this question without division; and before the Senator from Wisconsin came in, when that part of the debate was progressing, the Senator from Iowa, the Senator from Maine, and other Senators in charge of the bill on that side of the Chamber reciprocated that wish, and they had conceded various points in order that upon the consideration of this most important measure, growing out of this unusual and unique condition of affairs, the Senate might present an unbroken front and not be divided upon the main question or upon any of the details. Of course, I fully appreciate the sentiment and the wish which has animated the Senator from Virginia, and I am thoroughly in accord with what he desires to accomplish. I do think, however, that this is not the proper time to do it.

Mr. DANIEL. Mr. President, in the remarks which I made upon the offering of this amendment there was nothing which, by the most attenuated construction, could be supposed to contain a criticism either upon the President's action or the action of anyone else. So far as the President was concerned, his main action in the premises has met with the almost unanimous approbation of the American people, and his conduct, dignified, decided, and prompt in the face of an emergency which made the whole people feel exceedingly anxious, was, in my judgment, very commendable.

Most of the gentlemen who have spoken against the amendment have declared that in their own judgment it contains a correct principle. So far as their minds are concerned they admit the justice, the propriety, and the expediency of the doctrine which I commend. That is much greater censure than the act itself contains, for it implies that the putting of their principle into law is a criticism which the maintaining of the opinion does not carry. I can not make so fine a discrimination. I did not intend, nor do I now intend, either in expression of opinion or by declaration of law, to put a censure upon anyone connected with that matter.

Concatenations of circumstances come up in which one man is set in motion by a great and good motion, and where another is so connected with it that he is drawn into it by this influence or that, and finally, as a resultant, something is done which as a permanent system we would not be willing to welcome and to establish. So far as the President is concerned, and so far as is concerned any member of the board of arbitration or so-called commission, we are here and now called upon to deliver a vote of affirmative confidence and compliment. Wherein does this act involve the vote of confidence and compliment in embodying into law that which was not law and will not become law until Congress has enacted it as law and the President has approved it?

From the moment that that act becomes a law, the so-called inchoate, tentative arbitration or commission becomes an establishment of the Government of the United States, paid out of its Treasury, and, in effect, commissioned to perform duties for the whole people of the United States under compensation from them. So the word "commission" is used in this act, because when the act is passed the commission has arrived, is then created, and becomes a salaried commission of the United States; and knowing those whom the President has previously selected as members of that arbitration or commission, they will be themselves, per force of law, the recipients of the vote of confidence of Congress by being made salaried employees of the United States of America and a compensation provided for them.

It is very well for a public officer or a public agent to be sensitive about his public relation, but there is no reason in being supersensitive; there is no justification or ground for hunting around to see whether or not the persons who are confirming you and who are voting to pay you intended by some reflex, back action, to censure you for doing the thing which they propose to compliment and pay you for, because they reach into the future and say, "For the future we think another system of reaching employees is a wiser and better one."

The gentleman who is so supersensitive and who flinches so quickly when he is neither struck nor struck at, if he will go hunting through the world can find something to be sensitive about all the time; but no just ground of sensitiveness is contained in this declaration. If the honorable and intelligent gentlemen who have spoken in applause of the principle had felt that that principle was in itself a censure upon these gentlemen, they would never have uttered those words upon the Senate floor. It was the fact that they realized that that principle is no censure of any man here or there that caused them to get up and speak in its behalf; but they say somebody somewhere will make this construction and this imputation, and have this fancy or that. We are not responsible, Mr. President, for the foolish fancies of the world. We can not measure the sensitiveness of mankind and regulate our conduct here by that. If we know that we are right, all sensitiveness will settle itself in a perfectly satisfactory way.

The Senator from Wisconsin says that it is a declaration of Congress that these gentleman ought not to be in that business. On the contrary, it is a declaration of Congress to put them into that business and pay them for discharging it in the future as salaried employees of the United States.

Mr. SPOONER. Mr. President, if the Senator will permit me, does it not also prohibit it ever being done again?

Mr. DANIEL. Yes.

Mr. SPOONER. On what theory?

Mr. DANIEL. Because a thing may be all right when it is forbidden.

Mr. SPOONER. Upon the theory that it is not proper that it should be done?

Mr. DANIEL. Because it is wiser and best as a system of government to look elsewhere; and the Senator says that himself. Is he reflecting upon these gentlemen for having done in the past that which he does not propose to have anybody do in the future? If he does not want it done in the future, why not say so, not by mere word of mouth, but say it and seal it? The reflection is as great by the word as by the deed, but if the word is right the deed is also right.

On the other hand, there rises the Senator from Connecticut [Mr. PLATT]. He is not in accord with the distinguished Senator from Iowa [Mr. ALLISON] or the distinguished Senator from Wisconsin [Mr. SPOONER]. He thinks it is a wise and good system. He desires that the President of the United States may look into the halls of Congress, among the representatives of the States and the people and among the public officers of the United States and may put them in this inchoate way upon commissions. He thinks the time is coming in this country, different from the past, in which it will be better to mix things up in that sort of fashion.

I respectfully dissent from the Senator from Connecticut. I realize, Mr. President, that this practice is not a new one. The President of the United States who now holds that high and responsible position did not originate it. During Mr. Cleveland's Administration when he appointed a commissioner to Hawaii, although he was not an officer of the United States, I stood on this side of the Chamber and heard invective and diatribe upon the other against his power. I supported him in it. He had precedents back to the days of George Washington. It had been the fashion of our Government, and it will be even if this provision which I have had the honor to propose shall become a law, because we all realize that such things are purely tentative, that emergencies happen which no law can anticipate and no human wisdom provide for.

And in those cases where the act done has been a wise and a just one, the President may always confide in the wisdom of Congress, without the slightest scintilla of party relation to it, to substantiate and make good his veritable and patriotic act done for the interest of the whole people. All we propose to say is what is in the minds of Senators here on both sides of the Chamber. Indeed, if I may judge from the speeches which have been made, the most of them will vote against it because they are in favor of it.

Now, Mr. President, we should be practical in our attempts at legislation. I disclaim personal reflection upon anyone. I have not risen to offer this amendment with any kind of feeling against anyone. I have simply sought to embody a just principle which the great majority of the honorable gentlemen who have spoken against it recognize and applaud, but say, "Do not do it now. We fear somebody will be supersensitive." I take it that the gentlemen who are on this commission are sensible and experienced men. I think, when they read in an act of Congress that Congress has indorsed the action of the President, and more than that has gone further and made them a commission, which the President could not do, and has paid them a salary out of the Treasury of the United States, they will see in the act of Congress a thing done which precludes the fancies of criticism or the fancies from which a just sensitiveness might arise.

Our opportunities for legislation arise in such a case as this. This amendment is germane to the pending bill. It provides against a misconstruction of it. It does not relate to the past, which it proposes to confirm and to decree into law. It provides for the future, for the preservation of all the departments of this Government in their just independence of each other, in concentrating every mind in the Government to the performance of those duties which are provided by law.

I know, Mr. President, that every party which has ever been in

power in this country has made the same or a similar record. Some of the most distinguished Senators and Representatives who have honored the history of their country upon the floors of Congress have accepted such positions from executive authority and have made their names famous in the discharge of the duties which devolved upon them. I would put no blur upon their history; I would attribute no censure in a historical or a personal sense to anyone who was connected with such transactions; but because great and good men have been related to systems which the experience of time has shown us not to be the wisest, shall their names be evoked from the history of the past or brought up against us in the present to stop the wheels of a just measure of reform which gentlemen themselves say they desire to be perfected?

This, Mr. President, is making substance bow to form. It is making supersensitiveness and ceremony walk at the front when honest, practical legislation ought to have the right of way and go forward. I would be very glad indeed to accommodate the wishes of my distinguished and courteous friend the Senator from Wisconsin. If I saw the matter as he does, I would do so, because I do not think that this is an act or this an occasion in which, even if criticism or censure of any kind were proper, should be made the occasion for its utterance.

But not intending criticism or censure at this or at another time, I do not apprehend that the sentimentality which underlies that principle will be looked upon by any eye or be heard by any ear with any disposition to misunderstand or misconstrue it. I do not believe that the President himself would suppose that Congress or anyone in Congress intended thereby to imply a reflection upon him. In the main thing that he has done we are proud and glad to applaud him and in every way that is practicable to uphold his hands as the hands of a patriot and a statesman who was doing the wise and just thing for his country. And without disturbing that wise and just thing in any relation in which he chose to put it, we say, as to the future, "there is a rule which ought to be observed about such matters;" that is all.

Mr. HOAR. Mr. President, I wish my honorable friend the Senator from Virginia [Mr. DANIEL], for whose opinions on this as on all other subjects the entire Senate has such profound respect, would be willing to withdraw this amendment as a proposed amendment to the present bill and bring up the subject by itself in some appropriate bill, when the Senate may deal with it not only more deliberately, but having regard to some consideration which there is hardly time to urge now.

I make that appeal to him for two reasons. One is that I think he himself would like to limit—certainly I think many Senators who entirely agree with him in his general view, as I do very earnestly and heartily, would like to limit—the operation of this amendment as it is not now limited by its language. The amendment proposes that—

> No officer or employee of the United States * * * shall have any duties imposed upon him other than those imposed by law.

Now, I doubt whether my honorable friend himself would say, if we have to make a postal convention with some foreign country, that it would be well to exclude from the service of the country the best postmaster in the United States, the postmaster of one of our great cities, or anybody now in the public employ, who knows all about the subject, which is a difficult and technical subject.

Mr. DANIEL. Will the Senator from Massachusetts allow me to respond to him?

Mr. HOAR. Certainly.

Mr. DANIEL. I will say by no means, but, on the contrary, I would provide in the law by which the postal convention is attended by the United States that such persons might be put on.

Mr. HOAR. But these postal conventions are not always or frequently provided by law beforehand. There are I will not say a thousand arrangements, but a great many, that come up not through our ordinary diplomatic channels which can not be anticipated beforehand. Take a case like this. There are certainly a great many occasions when the President of the United States wants to summon to Washington somebody in the employ of the Government to take his advice, who is not compelled by law to come to Washington and advise him; and that is in essence and substance all that the President has done with this commission. He has asked them to go down and hear the parties and then give the parties and himself and also the country their account of the condition of things, with some recommendations.

It would be, in my judgment, a calamity to have the amendment of the Senator voted down, and I for one should be compelled to vote against it as it stands, because it would be taken hereafter, I am afraid, as a judgment of the Senate that what has happened in the past is approved or not disapproved by Congress. That is my other reason for hoping the Senator will withdraw the amendment.

Mr. DANIEL. Will the Senator from Massachusetts give me an opportunity to surrender?

Mr. HOAR. I yield to the Senator from Virginia.

Mr. DANIEL. When I was asked by several other gentlemen, for whose opinions and wishes I have great respect, to withdraw the amendment, I hoped that perhaps I might persist and get this matter through. But the Senator from Massachusetts has piled Ossa on Pelion, and I surrender to his request, so kindly made, and will seek a more fitting and more hopeful occasion. I might do the measure more harm than good by persisting now. For the present I give up.

Mr. HOAR. While I am up I should like to make one or two statements by way of history.

The President of the United States, on ten or a dozen occasions since I have been in public life, has nominated members of this body for important public services, either diplomatic or other, but generally diplomatic. In that he followed the precedent of Washington, who appointed John Jay, then Chief Justice of the United States, to make a treaty with Great Britain, perhaps the most famous single treaty in our annals. The first case which I remember was that of the monetary commission for the sake of dealing with the use of silver. There were two or three such commissions, in every one of which a member of the Senate was made a commissioner.

On the first occasion of that kind I made a very earnest protest against the inauguration of that practice, although the members of the Senate who were selected for that service were perhaps the very fittest men in the United States on either side. There was one commission, on the silver question, the bill for which did not go through, I think, on which, I believe, my honorable friend the Senator from Virginia was expected to be named. I do not mean that he had given his assent, but it was hoped by the country, I may say, at any rate, that he would be one of the commissioners.

Mr. DANIEL. I think that was one provided by law.

Mr. HOAR. Yes; one provided by law. But there have been others not provided by law. However, the objection in my mind does not——

Mr. DANIEL. Further, I beg leave to state to the Senator, it was not one of Executive appointment.

Mr. HOAR. No.

Mr. DANIEL. It was in the nature, if I remember correctly, of a delegation of the Senate.

Mr. HOAR. Perhaps with respect to that one it was so. But at any rate the question whether it is provided by law or is not is not decisive in my mind in regard to the matter of disapproving the practice. I do not think the President of the United States ought to take members from either House of Congress, whether by law or without, and impose upon them honorable and distinguished duties, for which they receive either a salary from the Government or compensation—sometimes pretty large—awarded by the President and an opportunity to go abroad and enjoy the great honor and pleasure of a visit and a residence at foreign capitals. It is a very conspicuous honor and a very conspicuous advantage and delight; and the President, who is prohibited by the Constitution from appointing a Senator or Representative to an office, ought not to come into this body and increase his Executive influence with Senators by the exercise of such a power.

In the next place, it puts the Senate in a most awkward situation. Here are members coming to this body responsible for a treaty, and then they are going to vote as Senators on the very treaty they themselves have negotiated under the absolute command or direction of the Executive. They are in no condition to listen to the arguments of their fellows, as the rest of us do. They are in no condition to consult with us as equals. Sometimes, I believe I have very good reason to say, Senators have voted as Senators on the floor for the ratification of treaties for which they never would have voted in the world except for their relation to the treaties as commissioners which they made under the direction of the President.

Mr. President, I do not think any blame or criticism is to be attached to the Senators who in recent years have accepted such employment. They acted upon a precedent established by General Washington and John Jay, and that is a pretty good precedent for anybody's action and a precedent which has been followed ever since. Although there was no vote of the body, yet I suppose from the time of the Jay treaty, which was the case of a judge, down to the Paris treaty, which was a case of Senators, the Senators who accepted commissions (and so in the case of the commission to Hawaii and others I could name) were the men whom all their associates would have delighted to have exercise those functions, as far as the individual was concerned and as far as the particular service was concerned. But when it comes to this practice, which has obtained so far, and we come to consider it as a matter of general principle, I think nearly every Senator who has acted under the old practice would say he thinks on the whole it would be better that it should not be continued.

I remember a very eminent member of the Judiciary Committee, not now in the Senate, who was at that time acting on a

commission to make a treaty with Canada. He stated that he was himself entirely convinced that the practice had better be discontinued. If I mistake not, he voted in the Judiciary Committee for a bill or resolution which would have the effect of discontinuing it in the future, although he had himself acted upon this service.

Now, this matter came up in the Judiciary Committee at the last Congress but one, I think. I suppose I am not betraying any confidence when I say that the committee were unanimous, I believe, with possibly one exception, in disapproving the practice. But we all thought that we did not want at that time to report a measure or resolution which might be construed by persons who did not know the facts into some possible censure or disapproval of the course of our associates in the Senate. Therefore we all agreed that it was better to leave any legislation or resolution on that subject to a time when there was no practical question which would affect anybody, and when everybody could deal with it without any seeming discourtesy or any prejudice.

But I, as chairman, was directed by the committee to wait upon President McKinley and recite to him what had happened and to say that it was the hope of the committee that the practice would not be further extended or continued. I waited upon President McKinley and communicated to him what I had been directed to say. President McKinley told me that, on reflection, he himself was entirely of that opinion, and that he did not think it was a practice which ought to be maintained.

But he added, what I suppose there is no great impropriety in saying, that it was hardly conceivable what difficulty he found in getting precisely the proper instrumentalities for diplomatic service, and that if he were excluded by law or by custom from availing himself of the capacities of the Senators who were familiar with the great subjects to be dealt with diplomatically, who were to act afterwards under their responsibility as Senators, it would increase very much indeed his difficulties in cases like those which had come up; that very nearly always the fittest men in the United States to go and cope with and struggle with and contend with skilled diplomatists abroad were very likely to be found in the Senate, as had been found in the very distinguished case in which the President of the Senate himself was one of the commission.

So there was absolutely no feeling on anybody's part that anything had been done by any of our associates or by President McKinley which was not in pursuance of very important precedents and in consonance with a practice which had prevailed almost from the beginning.

Now, I hope that at some convenient time the Senate will pass a law or resolution expressive of the feeling which I believe prevails almost without exception in this body. There are two or three exceptions, I know, but in general I believe the opinion of the body is almost unanimous that it is not well to allow the President of the United States so to appoint Senators. It is either appointing a committee for the Senate on the subject, when the Senate has the right to appoint its own, or is establishing a peculiar relation of confidence and control and interest between the Executive and some Senators that does not extend to the whole body.

Mr. McCOMAS. Mr. President, I merely wish to make one remark, as it is getting late.

I remember the occasion when this matter was up in committee and was discussed. I was one of the few persons, perhaps, on that occasion not fully convinced, but acquiescing. This question has been discussed at both ends of the Capitol many, many times. It has seemed to me that excellent men, because apprehensive of a particular result or opposed to a particular matter on principle, find fault with the method; and I think if, as the Senator from Massachusetts has said, this question is to be discussed, it had better arise upon a distinct proposition and there had better accompany it a list of the commissions which have been appointed by the Executives of this country from the days of Washington to McKinley.

Looking in the historic past and looking in the recent past if it be found that the commissions which have been appointed have been uniformly of the best selection and the work they have done has been the best work, then it may appear from the experience of a hundred and twenty-six years that the Executive, having the difficulty to which the Senator from Massachusetts referred, unless he did appoint a member of the judiciary or of either House of Congress, could not find some man with special fitness and aptitude for a delicate and important work, it would weaken the interest of the country and it would deprive the country of the services which were preeminently needed by the country to put this sort of a hamper upon the Executive discretion.

It has been said that in foreign mails you should have an expert. That is only one instance. In the foreign mail service you have for generations chosen employees exclusively from that service, because there are no other experts to be had. In respect to coinage, weights, and measures it has been the uniform custom in this country, and in respect of diplomatic subjects and many parliamentary questions. There is no other mode than to take from the ranks of the service, where the most experience resides, or those who have gained from their experience the most confidence of the people. Unless they can be taken the public suffers a loss.

Whenever this question shall come again before the Senate I hope that the gallant and wise Senator from Massachusetts, with the frankness and fairness so characteristic of him, may have compiled a list of all the commissions appointed from the days of Washington to the present. And if what we have done was well done and should not be undone, and if the men who have done it in the retrospect were the best men to do it, if there were among them men who could not have been equaled in performing that service, then why from this general notion of delicacy should the country lose substantial benefits?

Mr. HOAR. May I ask my honorable friend a question?

Mr. McCOMAS. Certainly.

Mr. HOAR. What does the Senator understand about the reason which induced the framers of the Constitution to provide that the President of the United States could not appoint a Senator or Representative to any office whatever of trust or profit under the United States, not even a village post-office, which would be consistent with his sending that Senator to a foreign capital to do exactly what an ambassador would do, to receive $20,000 or $30,000 as salary for the service, and have him spend a season there with the highest social position for the time on the face of the earth? I suppose the purpose of that constitutional provision which prevents the President of the United States from offering me the local post-office in my town is that there shall not be any Executive influence over the Senate.

Mr. McCOMAS. My answer is that the provision of the Constitution was not intended to apply to this sort of a case, for had it been so George Washington would not have quit the chair as President of the Convention which framed the Constitution, and then as the first President violated the spirit and letter of the Constitution by sending John Jay as a commissioner to perform the service he did.

Mr. HOAR. I am speaking of a Senator. What was the reason why the Constitution prohibited the President from appointing a Senator to office?

Mr. McCOMAS. And in further answer, Mr. President, when the Presidents lived in the time of the fathers and appointed Senators on some commissions of that sort, I apprehend that the fathers did not expect in the Constitution which they had just approved such a nicety, such a delicacy, such a sensitiveness as is now exhibited in this latter day, long after those men who made the Constitution did not make this application of it to commissions.

I say that in common sense and in the interest of the country we should not too much refine upon this matter. If the best man be a judge, if the best man be a Senator, if the best man be a member of the House, then the country is entitled to have the best man to represent it in something of that sort. In this particular case here, as has been said, these men are a commission in the sense that they are a board of conciliation made up by the friends of both sides. And what more natural than that an able judge who had won their confidence should be accepted by both sides as the chief arbitrator on that commission? There may have been hundreds of men in the same locality who would have been quite as good, but here was a man as chairman of a board of conciliation whose record and experience convinced both sides that they should quit their warring at this time and agree to take that man as one of the commissioners.

Therefore I say I think the time should not too early come when we should legislate to deprive the country of that which the Executives, from the first to the last, have found of very great service, honor, and profit to our common country.

The hour is late——

Mr. HOAR. My friend does not answer my question. Will he allow me to read this provision of the Constitution?

No Senator or Representative—

This does not apply to justices at all; it is speaking of Senators and Representatives.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Now, what was the reason for that provision?

Mr. McCOMAS. That would prevent a Senator or Representative from holding an office; and I have in vain expressed my impression if a place on the commission is an office. I insist that it is not an office.

Mr. HOAR. I so understand, but my question is not whether it is an office. My question is, What is the reason for this provision of the Constitution?

Mr. SCOTT. Mr. President, I should like to ask the Chair a question, if the Senator from Maryland will allow me.

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from West Virginia?

Mr. MCCOMAS. I yield for a moment.

Mr. SCOTT. Was not the amendment offered by the Senator from Virginia withdrawn?

The PRESIDENT pro tempore. It was.

Mr. MCCOMAS. Now, Mr. President, I merely answer that the members of the commission of which we are now talking are not, in the purview of the Constitution, what the Senator intimates; and the general and uniform practice of the Executives and the approval of the legislative body seem to maintain the construction for which I contend.

Mr. HOAR. My question is not whether they are officers or not; my question is, What was the reason for that constitutional provision? Will the Senator answer that?

Mr. MCCOMAS. The reason of the framers of the Constitution upon that proposition I am not prepared to discuss at this late hour. I only desire to say that the thing which we are now asked to do ought not to be done hastily or as of common consent. I am glad the amendment has been withdrawn, and if the Senator from West Virginia had been present he would have observed that a little while ago, but the withdrawal of the amendment with the suggestion of renewing the question induced me as one of the younger members of this body to say that I want to have the history of the operation of these commissions brought up for a discussion of the practice, whether it be good or bad.

The PRESIDENT pro tempore. Shall the amendments be ordered to be engrossed and the bill to be read a third time?

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT pro tempore. Shall the bill pass?

Mr. BAILEY. I desire to know if it is still in order to offer an amendment?

The PRESIDENT pro tempore. It is not.

Mr. BAILEY. I lost my opportunity to offer it because I thought it was understood that the word "Commission" where it appears here should be stricken out and in its place either "Arbitration" or "Board of Arbitrators" should be adopted. Words are sometimes unimportant and sometimes when they are intended to describe things they are very important. This is not a commission. This is a board of arbitration, and as such the President was entirely justified in appointing it. If he had attempted to appoint a commission without the authority of law I should not ratify that appointment; and I do not intend with those words in the bill to vote for it.

Mr. ALLISON. The Senator from Texas suggested this change to me. I saw no especial objection to it, and I do not now, except that I am afraid if the words are changed this appropriation will not be available, and as I do not know what the designation is of the gentlemen who are now acting.

Mr. BAILEY. There can be no designation. There is no law under which they could have been designated.

Mr. ALLISON. I suppose they are designated as a commission.

Mr. BAILEY. When and how? There can be no official designation of them until this bill passes. Now the bill simply recognizes the propriety of the appointment of arbitrators, a voluntary operation entirely, and the only extent to which the bill commits Congress is that we are willing to pay the expenses of an arbitration.

Mr. FORAKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Ohio?

Mr. BAILEY. Certainly.

Mr. FORAKER. I suggest that, following "Commission," the words "of Arbitrators" would be within any designation I have ever seen. It is true, as the Senator from Texas says, that we are now for the first time fixing a legal name. If he does not object to that amendment it seems to me that it ought to be made.

Mr. ALLISON. By unanimous consent it can be done.

The PRESIDENT pro tempore. By unanimous consent, of course, the vote by which the bill was ordered to a third reading and read the third time can be reconsidered. Is there objection to reconsidering the vote by which the bill was ordered to a third reading and read the third time?

Mr. MASON. I object.

The PRESIDENT pro tempore. Objection is made.

Mr. BAILEY. I would be glad to have the chairman of the committee make a motion to reconsider. If he does not I shall move it.

Mr. ALLISON. I have no objection to reconsidering the vote and inserting those words. I hope the Senator from Illinois will withdraw his objection.

Mr. MASON. I withdraw the objection. I made the objection, Mr. President, because I can not see any difference. We make it whatever we make it. It has no power necessarily until we give it power, retroactive in a way. Whether we call it a rose or anything else it can not make any difference.

Mr. BAILEY. It is said—

> That which we call a rose
> By any other name would smell as sweet.

But all things are not roses, the Senator from Illinois will understand. When we deal with literature that kind of an expression is permissible, but when we deal with practical and industrial conditions it looks to me like it is desirable to call a thing exactly what it is. This is a board of arbitration, and it seems to me that when we come to——

Mr. MASON. Will the Senator permit me to interrupt him?

Mr. BAILEY. Certainly.

Mr. MASON. What more power has the President to appoint a board of arbitration than he has to appoint a commission?

Mr. BAILEY. The President has no more authority to appoint it than I have or the Senator from Illinois. If these parties had come and said "we will agree to abide by the decision of a board of arbitrators named by the Senator from Illinois, Mr. MASON," under the circumstances the Senator from Illinois would have undoubtedly named the arbitrators; and when they were saving the country such a serious menace as then threatened its industrial and commercial peace I would have voted to pay the expenses of a board of arbitration appointed even by the Senator from Illinois. That is precisely what I want to do here.

Mr. MASON. I suppose I ought not to take further time than to say if we talk any longer we can not have any coal next week. So I will save my speech until next week.

Mr. ALLISON. Do I understand correctly that the vote has been reconsidered?

The PRESIDENT pro tempore. Was the objection withdrawn?

Mr. MASON. It was withdrawn.

The PRESIDENT pro tempore. The objection being withdrawn, the vote ordering the bill to a third reading is reconsidered and the bill is open to amendment.

Mr. ALLISON. Now, in line 7, I move to strike out "Commission" and insert "Arbitration," and in line 8 the same.

Mr. BAILEY. I suggest, in line 8, the word "arbitrators" would be better than "arbitration;" so as to read, "such arbitrators having been appointed."

Mr. ALLISON. I accept that, Mr. President, if I have any power to do so.

Mr. BAILEY. Then, in line 1, page 2, where it reads "the compensation of the members of said commission," it should read "of said arbitrators."

Mr. ALLISON. I would say "the members of said arbitration."

Mr. BAILEY. That is entirely satisfactory.

Mr. ALLISON. Let it read "the members of said arbitration" in line 1, page 2.

The PRESIDENT pro tempore. The Senator from Iowa moves an amendment in line 7, page 1, which will be stated.

The SECRETARY. On page 1, line 7, strike out the word "commission" and insert in lieu thereof "arbitration."

The amendment was agreed to.

The PRESIDENT pro tempore. The next amendment will be stated.

The SECRETARY. In line 8, page 1, strike out "commission" and insert the word "arbitrators;" and on page 2, line 1, strike out "commission" and insert in lieu thereof the word "arbitration."

The amendment was agreed to.

Mr. ALLISON. The word "commission" occurs in the amendment which I offered in line 4, page 2.

The PRESIDENT pro tempore. It does.

Mr. ALLISON. Let it be changed to "arbitration," so as to read "members of said arbitration."

The SECRETARY. Line 4, where the Senate struck out "President" and inserted "said commission," strike out the word "commission" and insert "arbitration or arbitrators."

Mr. BAILEY. If you use the word "members" you ought to use the word "arbitration;" so as to read, "members of said arbitration."

Mr. ALLISON. I think in line 4 it would be just as well to say "arbitration;" so as to read, "as may be fixed by said arbitration."

The SECRETARY. Strike out "commission" and insert "arbitration." It occurs in the amendment following the word "Government," also where it reads "$4,000 each; and for the employees of the said commission." Strike out "commission" and insert "arbitration."

The amendment was agreed to.

The PRESIDENT pro tempore. The word "commission" occurs in line 13, on page 2.

The SECRETARY. It occurs in the proviso which precedes, offered by the committee:

Provided, That the members of said "commission," etc.

Strike out "commission" and insert "arbitration." It occurs three times in the proviso.

Mr. ALLISON. Wherever it occurs I ask that "commission" may be changed to "arbitration."

The amendment was agreed to.

The SECRETARY. In line 13, page 2, strike out "commission" and insert "arbitration." In line 16, page 2, strike out "commission" and insert "arbitration."

The amendment was agreed to.

The PRESIDENT pro tempore. That is all.

Mr. ALLISON. Now, Mr. President, I believe that completes the amendments.

The PRESIDENT pro tempore. Shall the amendments be engrossed and the bill be read a third time?

Mr. ALLISON. I hope so.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAILEY. I suggest that the title be amended.

The PRESIDENT pro tempore. The title will be changed.

The title was amended so as to read: "A bill to provide for the payment of the expenses and compensation of the Anthracite Coal Strike Arbitration appointed by the President of the United States at the request of certain operators and miners."

ARTHUR P. LOVEJOY.

Mr. GALLINGER. Mr. President, I ask consent to call up House bill 3291, an urgent pension bill.

The Secretary read the bill (H. R. 3291) granting an increase of pension to Arthur P. Lovejoy, and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of Arthur P. Lovejoy, late of Company C, First Regiment Vermont Volunteer Cavalry, and to pay him a pension of $20 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EFFICIENCY OF THE MILITIA.

Mr. PROCTOR. Mr. President, I had hoped to get up the militia bill this afternoon, but of course that is now out of the question. I therefore give notice that immediately after the routine morning business on Monday morning I shall ask that it be laid before the Senate for consideration.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until Monday, December 15, 1902, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 11, 1902.

CONSUL-GENERAL.

George Sawter, of New York, now consul at Antigua, to be consul-general of the United States at Guayaquil, Ecuador, vice Thomas Nast, deceased.

COLLECTORS OF CUSTOMS.

J. Rice Winchell, of Connecticut, to be collector of customs for the district of New Haven, in the State of Connecticut, in place of John W. Mix, deceased.

Henry Whiting, of Maine, to be collector of customs for the district of Frenchmans Bay, in the State of Maine. (Reappointment.)

POSTMASTER.

Selah H. Van Duzer, to be postmaster at Horseheads, in the county of Chemung and State of New York, in place of Frank S. Bentley. Incumbent's commission expires December 20, 1902.

CONFIRMATIONS.

Executive nominations confirmed by the Senate December 11, 1902.

CONSULS.

William F. Doty, of New Jersey, to be consul of the United States at Tahiti, Society Islands.

George H. Bridgman, of New Jersey, to be consul of the United States at Kingston, Jamaica.

COLLECTOR OF CUSTOMS.

Ellery H. Wilson, of Rhode Island, to be collector of customs for the district of Providence, in the State of Rhode Island.

REGISTERS OF THE LAND OFFICE.

Neal J. Sharp, of Idaho, to be register of the land office at Hailey, Idaho.

Harry J. Syms, of Mountainhome, Idaho, to be register of the land office at Boise, Idaho.

RECEIVER OF PUBLIC MONEYS.

Charles H. Garby, of Idaho, to be receiver of public moneys at Lewiston, Idaho.

MARSHAL.

Edson S. Bishop, of Connecticut, to be United States marshal for the district of Connecticut.

POSTMASTER.

John E. Thomas, to be postmaster at Belleville, in the county of St. Clair and State of Illinois.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December 11, 1902.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

FIRST REGIMENT OHIO VOLUNTEER LIGHT ARTILLERY.

Mr. CAPRON. Mr. Speaker, I desire to present a conference report on the bill (H. R. 619) providing for the recognition of the military service of the officers and enlisted men of the First Regiment Ohio Volunteer Light Artillery, for the purpose of having it printed in the RECORD.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 619) providing for the recognition of the military service of the officers and enlisted men of the First Regiment Ohio Light Artillery, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

ADIN B. CAPRON,
CHARLES DICK,
JAMES HAY,
Managers on the part of the House.

J. B. FORAKER,
REDFIELD PROCTOR,
F. M. COCKRELL,
Managers on the part of the Senate.

The statement is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 619) providing for the recognition of the military service of the officers and enlisted men of the First Regiment Ohio Volunteer Light Artillery, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

This action places the proposed legislation as it passed the House June 20, 1902, and was approved by the Senate December 9, 1902.

ADIN B. CAPRON,
CHAS. DICK,
JAMES HAY,
Managers on the part of the House.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 619) providing for the recognition of the military service of the officers and enlisted men of the First Regiment Ohio Volunteer Light Artillery.

The message also announced that the Senate had passed, without amendment, the bill (H. R. 15794) to amend section 20 of an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House was requested:

S. 3975. An act to refund internal-revenue taxes paid by owners of private dies.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 3975. An act to refund internal-revenue taxes paid by owners of private dies—to the Committee on Claims.

ENROLLED BILL SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 15794. An act to amend section 20 of an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890.

EULOGIES ON THE LATE REPRESENTATIVE CHARLES A. RUSSELL.

Mr. BRANDEGEE. Mr. Speaker, I desire to ask the House to fix a time for memorial addresses upon the life, services, and character of the Hon. CHARLES A. RUSSELL, deceased, late a member of this body. With this object in view I beg leave to offer the following resolution.

The Clerk read as follows:

Resolved, That the House meet on Sunday, the 25th day of January, 1903, at 12 o'clock noon, for eulogies upon the life, character, and services of the Hon. CHARLES ADDISON RUSSELL, deceased, late a member of this House.

The resolution was agreed to.

CONTESTED-ELECTION CASE OF WAGONER AGAINST BUTLER.

Mr. OLMSTED. Mr. Speaker, by direction of the Committee on Elections No. 2, to which was referred the petition of Wagoner, the contestant, in the contested-election case of Wagoner against Butler, from the Twelfth district of Missouri, I present the following supplemental report, and ask immediate consideration of the resolution.

The Clerk read as follows:

Further report of Committee on Elections No. 2, to which was referred the petition of George C. R. Wagoner, contesting the election of James J. Butler from the Twelfth Congressional district of Missouri.

After the preparation and adoption of the original report, but previous to its presentation to the House, Mr. Butler and one of the minority members of the committee claiming not to have received their notices in time to appear at the meeting, another meeting of the committee was duly called, at which both parties were present, their statements heard, and the report as originally prepared readopted, with some slight changes in the form of the resolution, and in said amended form immediately presented to the House, December 5, 1902.

The committee now desires to add that at said hearing Mr. Wagoner, the contestant, declared his ability to take the testimony necessary to make out his case within fifteen days. Mr. Butler, being asked what time he would require, declined any estimate and denied the power of the House to modify the time for reply to notice of contest, taking of testimony, filing of briefs, etc., as fixed by statute. We have no hesitation in saying that there is no statute which can fetter this House in the exercise of the high privilege and important duty devolved upon it by the constitutional declaration that "each House shall be the judge of the elections, returns, and qualifications of its own members."

The first legislative action upon the subject was taken in the Fifth Congress, and resulted in the act which was approved by the President January 23, 1798. That bill was reported to the House by Mr. Harper, of South Carolina, from a select committee of five appointed for the purpose. In their report the committee unanimously conceded that the provisions of such a statute could not be enforced on any future House of Representatives, and that its only proper and necessary function would be to provide the mode in which testimony should be taken and grant the powers for the compelling of attending of witnesses, leaving it for each House to determine when testimony thus taken should be presented, whether it would receive it or not, "while the constitutional rights of each House would be saved by its power to adopt or reject the rule for the admission of the testimony."

In the Senate, however, an amendment was inserted as the result of which the act expired at the end of the first session of the Sixth, or next, Congress. Two or three subsequent attempts were made to enact legislation upon the subject, but the majority of the House seemed to have considered that such legislation would be wholly unconstitutional, and from that time until 1851 there was no method of taking testimony until the first session of the Congress to which the opposing parties claimed to have been elected, thus in ordinary cases deferring for more than a year even the commencement of a contest.

To remedy this difficulty Mr. William Strong, of Pennsylvania, afterwards a justice of the supreme court of that State and later of the Supreme Court of the United States, prepared and championed to its passage the act of 1851. To the argument that it was wholly unconstitutional because infringing upon the privileges of the House, he made much such reply as was embraced in the report made by Mr. Harper's committee to the Fifth Congress, contending that the act, as framed, would not and could not interfere with the constitutional rights of any subsequent House, because, as he said, "there is no provision restraining the power of the House to proceed in another manner." (Congressional Globe, p. 109.)

In the Thirty-fifth Congress, in the case of Brooks *v.* Davis, the House having been asked to depart from the provisions of the act of 1851, a minority of the committee filed a report in favor of granting the request. In said report they said:

"If it is claimed that the act of 1851 prevents the House of Representatives from pursuing an investigation in any other manner than prescribed by that act, it would then be wholly inoperative, coming into conflict with the fifth section of the first article of the Constitution of the United States, which provides 'each House shall be the judge of the elections, returns, and qualifications of its own members.' No prior House of Representatives can prescribe rules on this subject of binding force upon its successor, nor can the Senate interfere to direct the mode of proceeding; the House of Representatives is not a continuing body, each body of Representatives having an independent and limited existence, and having the clear right to determine, in its own way, upon 'the elections, returns, and qualifications of its own members.' A like authority is given, and in similar terms, to each House to 'determine the rules of its proceedings, punish its members for disorderly behavior,' etc.; and no member will pretend that a general law, passed in such terms as the act of 1851, would restrain any House from acting on these subjects independently of the law."

That report was signed by four noted lawyers, among them Mr. L. Q. C. Lamar, of Mississippi, afterwards Attorney-General under President Cleveland and by him appointed a justice of the Supreme Court of the United States.

See also the decision in United States *v.* Ballin (141 U. S., 1), unanimous opinion of the court written by Mr. Justice Brewer, Mr. Lamar being at that time a member of the court.

The majority report, presented by Mr. Boyce, of South Carolina, agreed with the minority as to the powers of the House, but held that in that particular case it was inexpedient to depart from the provisions of the statute until the contestant had first exercised all his rights thereunder.

In Williamson *v.* Sickles (1 Bart., 288) Mr. Dawes, of Massachusetts, presented the report of the committee, holding that the act of 1851 had no binding force upon the House. The minority report raised the direct issue by declaring "that it is not competent for the committee to recommend any action to the House which involves a violation of the law of 1851, because as a law of Congress it is obligatory alike upon the House, the committee, and the contestant." The resolution reported by the majority was adopted by the House—yeas 80, nays 64.

Other cases upon the subject in addition to Benoit *v.* Boatner in the Fifty-fourth Congress, are: Reeder *v.* Whitfield, Dailey *v.* Morton, Coffroth *v.* Koontz.

The Kentucky cases in the Fortieth Congress, Congressional Globe, first session, p. 546: Bisbee *v.* Finley, 2 Ells., 172; Jones *v.* Shelly, 2 Ells., 681; Rowell's Digest, 394; Fuller *v.* Dawson, 2 Bart., 126; McGrorty *v.* Hooper, 2 Bart., 211; Thomas *v.* Arnell, 2 Bart., 162; Hunt *v.* Sheldon, 2 Bart., 530; Sheafe *v.* Tillman, 2 Bart., 907; Kline *v.* Verree, 1 Bart., 574; Chapman *v.* Ferguson, 1 Bart., 267; Howard *v.* Cooper, 1 Bart., 275; Vallandingham *v.* Campbell, 1 Bart., 223; Bell *v.* Snyder, Smith, 247. See also Paine on Elections, sections 996 and 1003.

We therefore recommend the adoption of the following preamble and resolution:

Whereas James J. Butler having been returned as elected to membership in this Congress from the Twelfth district of Missouri, his right to such membership was contested on the ground of gross frauds in his election, and having heard said contest this House, on the 28th day of June, 1902, declared said Butler not to have been elected; and

Whereas an election having been held November 4, 1902, to fill the vacancy resulting from the said action of this House, the said Butler was again returned as elected from the said district, took the oath of office December 1, 1902, and now occupies a seat in this House, and George C. R. Wagoner has, through a member of the House, presented a memorial or petition claiming that he, and not the said Butler, was duly elected, alleging gross frauds in the election and showing that he has served upon said Butler a notice of contest; and

Whereas the full time allowed by statute for the taking of testimony, filing of briefs, etc., in such cases would extend beyond the term of the present House, thus preventing it from judging of the merits of the said contest, and the said Wagoner in his petition prays that by appropriate action such time shall be so shortened as that the controversy may be determined before the expiration of the Fifty-seventh Congress; and

Whereas Committee on Elections No. 2, to which said petition was referred, has reported that it awarded a hearing to both parties and that the said Wagoner declares his ability to take the testimony upon his side in fifteen days, and the said Butler making no estimate of the time that will be required by him, and denies the power of this House to shorten the time as fixed by the act of 1851, and other statutes; and

Whereas it is the sense of the House that this contest should be heard and decided at this session: Therefore

Resolved, That in the contested-election case of George C. R. Wagoner *v.* James J. Butler, from the Twelfth Congressional district of Missouri, the contestee shall be required to serve upon contestant his answer to notice of contest on or before December 20, 1902, and that the time for taking and completing testimony in such case shall be limited as follows: The contestant shall be allowed from December 15, 1902, until and including January 3, 1903, in which to take testimony; the contestee shall be allowed from January 3, 1903, until and including January 27, 1903, for the taking of his testimony, and the contestant shall be allowed from January 27, 1903, until and including February 1, 1903, for the taking of testimony in rebuttal. As soon as the testimony shall have been received by the Clerk of this House it shall at once be referred to the Committee on Elections No. 2, and the said committee shall proceed to the consideration of the case; and, having first afforded to the parties an opportunity to be heard as to the merits of the same, shall report to this House its conclusions with respect to such case in time to afford to the House an opportunity to pass upon the same during the present session of Congress. Except so far as herein otherwise provided, this case shall be governed by the ordinary rules of procedure in contested Congressional election cases.

Mr. RICHARDSON of Tennessee. Is there any change in the resolution?

Mr. OLMSTED. There is no change in the resolution. It is a supplemental report; but there is no change in the resolution itself.

Mr. RICHARDSON of Tennessee. Has the supplemental report been printed?

Mr. OLMSTED. It has not. I will state further that it consists of citations of authorities simply for historical reference.

Mr. RICHARDSON of Tennessee. I think there ought to be some additional ones cited, for they are needed. I should like an opportunity to see the additional citations, for certainly the gentleman did not cite any which were sufficient in the original report. I hope the gentleman will not undertake to call up the case for action now, inasmuch as we have not seen the supplemental report and have not had our attention called to the authorities.

Mr. OLMSTED. I call up the resolution as privileged, and ask for its immediate consideration.

The SPEAKER. The gentleman calls up the resolution for the consideration of the House.

Mr. OLMSTED. I would like to ask, Mr. Speaker——

Mr. RICHARDSON of Tennessee. Before the case is entered upon for consideration, I want to ask the gentleman if he thinks we ought to be called upon to consider the case without any report?

Mr. OLMSTED. The report has been filed, there is no obligation upon the committee to file a supplemental report, and it simply files additional authorities for the information of the House at such time as any member may choose to read it.

The SPEAKER. Does the gentleman from Tennessee raise the question of consideration?

Mr. RICHARDSON of Tennessee. Yes, Mr. Speaker.

The question of consideration was taken; and the Speaker announced that the Chair was unable to decide, and appointed Mr. OLMSTED and Mr. RICHARDSON of Tennessee as tellers.

The question was again taken; and the tellers reported that there were—ayes 136, noes 114.

So the House decided to consider the resolution.

CONTAGIOUS DISEASES OF ANIMALS.

Mr. WADSWORTH. The gentleman from Pennsylvania consents to yield to me a moment. I desire to report, from the Committee on Agriculture, a bill (H. R. 15922) to enable the Secretary of Agriculture to more completely eradicate contagious diseases of animals. This is in the nature of an emergency measure. It will be printed and on file to-morrow morning, and I wish to give notice that I will ask for its immediate consideration at that time. I am so directed by the Committee on Agriculture.

The SPEAKER. The gentleman from New York, by direction from the Committee on Agriculture, reports a special appropriation bill in regard to stamping out diseases of cattle now spreading throughout the country, and he gives notice that he will call it up for consideration to-morrow. The bill will be printed with the report, and will go to the Calendar of the Committee of the Whole on the state of the Union.

Mr. RICHARDSON of Tennessee. I reserve all points of order on the bill.

CONTESTED-ELECTION CASE OF WAGONER AGAINST BUTLER.

Mr. OLMSTED. I wish to ask gentlemen on the other side whether we can make an arrangement as to the disposition of time to be consumed in this debate?

Mr. RICHARDSON of Tennessee. Mr. Speaker, I wish to make a parliamentary inquiry. The resolution presented here, as I construe it, is directly in the teeth of more than one statute of the United States. I wish to raise that question now, if this is the proper time to do so, and to insist that it is not within the power of the House of Representatives to pass this resolution. I could not raise this point while the question of consideration was pending, but I now raise it, and I desire at this time to be heard on that point. I make the point that the resolution is not privileged because it is directly in the teeth of the statutes; and if it is privileged it ought not to be passed.

The SPEAKER. Answering the parliamentary inquiry of the gentleman from Tennessee, the Chair calls attention to several decisions holding that, the House having voted to consider a measure, a point of order against it comes too late. The gentleman from Pennsylvania is entitled to the floor.

Mr. ROBINSON of Indiana. Mr. Speaker, I desire at this time to offer an amendment to this resolution—to insert in line 5 of the printed copy——

The SPEAKER. The gentleman from Pennsylvania has the floor unless he yields.

Mr. ROBINSON of Indiana. I was simply stating my proposition. I ask the gentleman to yield for the purpose of allowing an amendment, to insert in line 5 of the printed resolution the word "twentieth" instead of "fifteenth."

The SPEAKER. Does the gentleman from Pennsylvania yield for that amendment?

Mr. OLMSTED. I prefer that the gentleman should make it a little later in the discussion.

Mr. ROBINSON of Indiana. Will the gentleman allow it to be offered now and considered pending?

Mr. OLMSTED. Yes.

Mr. ROBINSON of Indiana. And if the gentleman will permit——

The SPEAKER. With this understanding the amendment will be sent up and read, so that the House may comprehend it, and it will be considered as pending for consideration at the proper time.

The Clerk read as follows:

On page 1 strike out the word "fifteenth," in line 5, and insert the word "twentieth;" so as to read: "Notice of contest on or before December 20, 1902."

Mr. ROBINSON of Indiana. And with the permission of the gentleman from Pennsylvania, I desire to offer a substitute resolution, which I hope he will allow to be read now and considered as pending.

The SPEAKER. Does the gentleman from Pennsylvania yield for the purpose of having this proposition read?

Mr. OLMSTED. Yes, sir.

The Clerk read as follows:

Resolved, That after a reasonable time has been given by Election Committee No. 2 to contestee to file his answer to the notice of contest, that a subcommittee of five be appointed by the chairman of the Committee on Elections No. 2 to make a full and thorough investigation of the contested election case of George C. R. Wagoner against James J. Butler, from the Twelfth Congressional district of Missouri; to take and report all the evidence in regard to the methods of said election, and as to whether the contestant or the contestee or either of them was lawfully elected, and report such evidence to the said Committee on Elections, and said committee will report said evidence and its findings to the House for further action.

Said subcommittee is empowered to issue subpœnas for witnesses, to send for persons and papers, to employ a stenographer and deputy sergeant-at-arms, and to sit during sessions of the House. Said subcommittee may proceed to Missouri, if deemed necessary by them, to take any part of said testimony. That all expenses of said committee shall be paid out of the contingent fund of the House. That all vouchers or expenditures shall be certified by the chairman of the subcommittee of the said Committee on Elections. The Clerk of this House is authorized to advance the necessary funds to the chairman of said subcommittee upon his drafts therefor in sums not exceeding $1,000 at any one time, to be accounted for under the terms of this resolution, under the supervision of the Committee on Accounts.

The SPEAKER. Does the gentleman from Pennsylvania yield for the purpose of allowing this proposition to be pending for consideration?

Mr. OLMSTED. Yes, sir.

The SPEAKER. It will be so understood by the Chair.

Mr. OLMSTED. I now ask the gentleman from Indiana what arrangement can be made as to the amount of time to be consumed in the discussion of this matter.

Mr. ROBINSON of Indiana. Mr. Speaker, I think that two hours on a side would not be too much, and I ask the gentleman from Pennsylvania to propose that to the House.

Mr. OLMSTED. I would suggest to the gentleman that, as we do not propose to and could not, probably, in the discussion of this resolution, go into the merits of the election contest, it seems to me that that is too much time.

Mr. ROBINSON of Indiana. But the gentleman readily understands that this now is a case where the exigency requires consideration of the election contest in the life of this Congress—within three months—and it is important for Congress to know some of the matters that are involved in the case. In order to have that understanding and to properly judge of the merits of these two propositions, I think it is important that the matter should be thoroughly understood, with a statement of enough of the facts to enable the House to judge as to the merits of the respective propositions presented to it; and as this is the first time that Elections Committee No. 2 has asked the House of Representatives in six years for any time, except to confirm its unanimous action, I think the gentleman ought not to object to the two hours on a side.

Mr. OLMSTED. I will ask if the gentleman would then be willing to agree that the previous question be considered as ordered at the expiration of the time agreed upon for debate upon the resolution, the substitute, and the amendment.

Mr. ROBINSON of Indiana. The tendency, of course, would be to cut out all other amendments; and while I know of none, and my colleagues on the committee know of none, yet I think that rule at this time would be too drastic. I think there will be no difficulty about it, however.

Mr. OLMSTED. I think if we agree to so long a time, when I am sure this side of the House does not desire it, and our side having, of course, the burden, we ought to have a definite understanding that the matter close at the expiration of that time.

Mr. ROBINSON of Indiana. I think the gentleman has a right to close it at that time. He has a right to move it at the expiration of that time. Personally, I have no objection to it, but the tendency would be to cut off amendments that may be considered proper by the gentleman himself.

The SPEAKER. What is the request submitted by the gentleman from Pennsylvania?

Mr. OLMSTED. I ask unanimous consent that three hours be allotted to the discussion of this resolution, amendment, and substitute, now pending, one half to be controlled by myself and the other by the gentleman from Indiana.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that the debate be limited to three hours, one half to be controlled by himself and the other by the gentleman from Indiana. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Chair recognizes the gentleman from Pennsylvania.

Mr. OLMSTED. Mr. Speaker, at the regular election at which members to the Fifty-seventh Congress were elected, James J. Butler was returned as elected from the Twelfth district of Missouri, composed of the city of St. Louis. He was sworn in as a member and his seat immediately contested upon the ground of gross frauds in the election. That contest was heard by the appropriate committee and by this House, which decided on the 28th day of June, 1902, that he had not been lawfully elected. It held that nobody had been elected. A special election was held on the 4th day of November, 1902, to fill the vacancy thus occasioned. As the result of that election Mr. Butler was again returned as having been chosen to fill the vacancy occasioned by his own unseating in this House. There has been presented through an honorable member of this body the petition of George C. R. Wagoner, claiming that he and not the said Butler was duly elected at said special election, for the remainder of this Fifty-seventh Congress. Mr. Wagoner accompanies his petition with

a copy of the notice of contest and with sworn statements, which convince your committee that his contest is made in good faith. But, according to the act of 1851 and the amendatory statutes of 1873, 1875, and 1887, the time allowed for the contestee, the sitting member, to serve his answer is thirty days.

The time for the taking of testimony is forty days upon the one side, then forty upon the other, and ten days in rebuttal, or ninety days in all. Then, under the law of 1887, sixty days more are allowed for filing briefs, so that, in the ordinary course, under these statutes this case could not be presented to this House for its consideration before the 1st of next July, whereas by constitutional limitation the term of this House, as well as the term for which Mr. Wagoner claims to have been elected, will expire in March. That being the case, the petitioner asks that by appropriate action the House will so shorten the time as to permit of the decision of the contest at this session.

Your committee had both parties before it. The contestant, upon whom, of course, rests the burden of proof, averred his ability to prove his case within fifteen days. The contestee, Mr. Butler, declined to make any estimate of the time required by him, but denied the power of the committee or of the House to shorten the time as fixed by statute. In other words, coming up here claiming to have been elected to fill the vacancy caused by our rejection of his former credentials, he points to the statute that prevents our consideration of his case, and, figuratively speaking, applies his thumb to his nose, gyrates his fingers in our direction, and asks, "What are you going to do about it?"

Now, the question is whether this House will exercise the high prerogative and privilege conferred upon it by the Constitution, which says that each House shall be the judge of the elections, returns, and qualifications of its own members. Taking the contestant at his word, the committee has recommended a resolution which allows him fifteen days, exclusive of Sundays and holidays, for the taking of testimony. We have then allowed the sitting member twenty days to take testimony in reply, and the contestant five days in rebuttal, upon the return of that testimony the committee to proceed immediately to the consideration of the case and report it to this House in time for its action at this session.

Now, it is claimed by the gentleman from Tennessee [Mr. RICHARDSON], and I have no doubt that a great deal of the burden of the argument upon the other side will be, that we propose to disregard the provisions of the statute of 1851. We do. We claim that right.

The Constitution is over and above and beyond the reach of any act of Congress. It imposes upon "each House" a duty to perform, and our position is that upon the performance of that duty no previous House could impose any restriction or condition whatever which, though concurred in by the Senate and approved by the President, is in any way binding upon this present House any further than it chooses to be bound.

I have taken some pains to examine into the history of such legislation, and of the action of successive Houses under it, and have found, as I supposed, that it never was intended, even by the framers of this legislation, that it could or should have any binding effect upon any future House, and also that the House itself has always, upon proper cause shown, claimed and exercised the power of disregarding and setting aside in any particular case the provisions and requirements of this statute, and of proceeding otherwise, as the requirements of the particular case seemed to demand, frequently in direct conflict with the provisions of the act of 1851.

The very first legislation upon the subject occurred in the Fifth Congress. Certain resolutions upon the subject were submitted and considered in Committee of the Whole. Mr. Sitgreaves, of Pennsylvania, and Mr. Gordon, of New Hampshire, and others, argued that such a resolution would not be binding upon any future House. The Committee of the Whole seems to have been very strongly of that opinion, as it rose without taking action, and leave was refused to sit again. It having been suggested, however, in debate that a bill might be passed to do away with the inconvenience arising from the fact that there was no law obliging witnesses to give their depositions in contested-election cases, a motion was made and carried for the appointment of a select committee of five—

to take the subject-matter itself under consideration and report their opinion generally to the House.

The entire membership of the committee is not given, but its report was submitted to the House December 15, 1797, by Mr. Harper, of South Carolina, a very prominent lawyer in his day.

That report, which appears to have been unanimously adopted, was presented by Mr. Harper, of South Carolina, a very eminent lawyer in his day. The committee recommended the passage of a law making provision for the taking of testimony, compelling the attendance of witnesses, etc., and in their report said:

As to the objection, that such a law could enact no sanctions by which the admission of testimony, taken in pursuance of its provisions, could be enforced on any future House of Representatives, the committee do not consider it as of sufficient weight to prevent the adoption of the measure; even the utility of which they do not suppose would be, in any considerable degree, diminished by this objection.

And I ask the gentleman from Tennessee [Mr. RICHARDSON] particularly to attend to this language:

The proper and the only necessary functions of such a law would be to prescribe the mode in which testimony should be taken, and to grant powers for compelling the attendance of witnesses. Whether testimony thus obtained should be admitted in any particular case, or whether further testimony should be required, must depend on the decision of that House before which such case should come for discussion; and it would be in the power of each House, at the commencement of its first session, to adopt a rule declaring that in all cases of contested elections to come before it testimony taken pursuant to such law should be received. This, it is presumable, would be done, and would gradually grow into a constant and well-known regulation, to which all persons engaged in contested elections might with safety conform. It would still be in the power of each House to refrain from passing such a resolution and to reject the testimony; but it ought not to be presumed that when the mode should have been perfected by experience, and becoming generally known, testimony fairly taken in conformity to it would be rejected. On the contrary, there would be a strong and well-founded presumption that such testimony would be received; and this presumption, joined to the aid which the law would afford in compelling witnesses to attend, would enable persons concerned in contested elections to come at first duly prepared for the trial, while the constitutional rights of each House would be saved by its power to adopt or reject the rule for the admission of the testimony.

To adopt this rule at the beginning of each Congress, before it should be known to what particular cases it was to apply, would, moreover, preclude those inconveniences which result from the discussion of general principles in connection with particular cases.

Conformably to these ideas the committee recommend that a law be passed prescribing the mode in which and the persons before whom testimony in cases of contested elections for this House shall be taken, and giving power to compel the attendance of witnesses for that purpose.

That report may be found in American State Papers, miscellaneous, volume 1, page 159, and the proceedings in relation to the matter in Annals of Congress, volume 5, part 1, Fifth Congress, first and second sessions.

On December 18 the House and Committee of the Whole agreed to the committee's report without debate, and directed that it bring in a bill in accordance with its recommendations. Such a bill was presented, and appears to have been passed by the House unanimously and without debate. It was entitled:

An act to prescribe the mode of taking evidence in cases of contested elections of members of the House of Representatives of the United States, and to compel the attendance of witnesses—

and was approved by the President January 23, 1798.

The Senate, however, appears to have had some doubts upon the subject, for the bill was referred to a select committee of three, which reported an amendment unanimously—

That this act shall continue and be in force until the end of the first session of the Sixth Congress and no longer.

From that time until 1851 there was no law providing for the taking of testimony, and in contested-election cases nothing could be done until the meeting of the Congress, more than a year after the election. The contestant then presented his memorial to the House, and a committee was sent from the House to examine witnesses and procure the necessary evidence. The result was that such contest could not be decided until a large part of the life of the Congress had passed away. A person not entitled to his seat frequently occupied it for many months, while the rightful occupant was as long excluded, and in the end the Government had frequently to pay the salaries of both the parties for the same period.

To remedy this evil and to expedite the decision of such cases by providing a method of taking testimony in advance of the sitting of Congress, the act of 1851 was prepared, introduced, and championed to its passage by Mr. William Strong, of my own State of Pennsylvania, afterwards a justice of the supreme court of that State, and later a justice of the Supreme Court of the United States.

During the consideration of the bill, objection was made to its constitutionality, particularly by Mr. Jones, of Tennessee, who denied the authority of the President or Senate to take any part whatever in relation to such contest, the Constitution providing, as he said, "That each House must be a law to itself with respect to the election and qualification of its members." Mr. Jones referred particularly to the provision requiring the contestant to serve his notice of contest within thirty days after the lawful determination of the result of the election. Upon this point, Mr. Strong said:

I heard it suggested the other day when this bill was read that it took away the power of the House to judge of its own elections. There is no such provision in it. There is one section of the bill which provides that every contestant shall give the notice and may take testimony in the mode prescribed. There is no provision restraining the power of the House to proceed in another manner. (Congressional Globe, p. 109.)

His entire remarks show that the intention of the framers of the law were to expedite the taking of testimony and preparation of cases for the consideration of the Elections Committee and of the House itself, so that, as he declared, instead of months of delay during which a person wrongfully occupying a seat might hold it to the exclusion of the rightful member, the country meanwhile paying the salaries of both, there could be a decision

soon after the meeting of Congress, the testimony having been previously taken.

It is manifest from his speech, taken as a whole, and from the remarks of others during the passage of the bill, that it was not the intention or expectation that its provisions would be binding upon any future House, but that if expressly or impliedly adopted by each succeeding House, the regulations thus provided would enable the contesting parties to take their testimony in advance of the meeting of the House in which they claim membership. "There is," said Mr. Strong, "no provision restraining the power of the House to proceed in another manner." In other words, the notion of the House in 1851 was the same as that which obtained in 1798, namely, that the regulations provided would not be binding upon any future House, but would be of great convenience to each future House that should choose to adopt or accept them. Their thought was that the statute would be binding upon all parties except the House.

In the Senate the act of 1851 does not appear to have been debated at all. Mr. Bradbury, who moved its passage, said:

I ask it as a matter of courtesy of the House. It affects them and can not go into operation without our action upon it.

The bill was thereupon passed by the Senate and afterward approved by the President.

The ruling, or at least the action of every House in which the question has been raised, from 1851 down to the present time, has been in entire accord with the views expressed, as I have already shown, by the framers of the act of 1798 and again by the framers of the act of 1851. The question was indeed raised a very few years after the passage of the act of 1851.

In the Thirty-fourth Congress, in 1856, in Archer *v.* Allen, the majority of the committee reported that they regarded the act of 1851 "as directory merely and not as absolutely controlling the action of the House or of the committee," and they permitted the contest to be governed outside of and in conflict with the provisions of the statute. The minority, however, in their report, held the act to be peremptory and binding.

The House sustained the majority and unseated the sitting member—94 to 90. The case is reported in 1 Bartlett, 169, and in Rowell's Digest, 762.

On February 14, 1856, Mr. A. H. Reeder gave his first notice of intention to contest the seat of Mr. Whitfield, a Delegate from Kansas, claiming to have been elected October 1, 1855. The act of 1851 requires notice of contest to be served within thirty days from the election and allows ninety days for the taking of testimony. Although nearly five months after the election Mr. Reeder had neither served notice of contest, nor taken testimony, nor in any other respect complied with the terms of the act of 1851, upon the presentation of his memorial that act was discussed in the House. It was claimed by some that while it in terms applied to States only, by implication it extended also to contested elections in Territories. But it was argued, apparently with prevailing effect, by Mr. Israel Washburne, of Maine, that even if it did apply to Territorial contests, the act of 1851 could not prevent the House, under the Constitution, from passing such orders and resolutions to procure testimony, whether by witnesses or depositions, as it might think proper. By resolution of the House, a special committee was appointed consisting of John Sherman of Ohio, William A. Howard of Michigan, and Mordecai Oliver of Missouri. The report of that committee was referred by the House to the Committee on Elections, whose report and the action of the House thereon unseated Mr. Whitfield by a vote of 110 to 92. A resolution to admit Mr. Reeder was defeated by a vote of 88 to 113, so the seat became vacant.

In the Thirty-fifth Congress, February 12, 1858, Henry P. Brooks, of Baltimore, addressed a memorial to Congress, stating that he had served notice of contest upon Henry Winter Davis, and setting forth reasons why he ought not to be required to proceed under the act of 1851, urged the House to decide the contest "By evidence summoned to the presence of the House or by full investigation by a committee with adequate powers." His memorial was referred to the Elections Committee, which reported that the reasons stated in the memorial were not sufficient to induce the House to go beyond the act of 1851. The minority presented a report in favor of granting his request. I desire to call the attention of gentlemen upon the other side of the Chamber to that report. It proceeds thus:

If it is claimed that the act of 1851 prevents the House of Representatives from pursuing an investigation in any other manner than prescribed by that act, it would then be wholly inoperative, coming into conflict with the fifth section of the first article of the Constitution of the United States, which provides "each House shall be the judge of the elections, returns, and qualifications of its own members." No prior House of Representatives can prescribe rules on this subject of binding force upon its successor, nor can the Senate interfere to direct the mode of proceeding; the House of Representatives is not a continuing body, each body of Representatives having an independent and limited existence, and having the clear right to determine in its own way upon "the elections, returns, and qualifications of its own members." A like authority is given, and in similar terms, to each House to "determine the rules of its proceedings, punish its members for disorderly behavior," etc.; and no member will pretend that a general law, passed in such terms as the act of 1851, would restrain any House from acting on these subjects independently of the law.

This report was signed by Henry M. Phillips, of Pennsylvania; Thomas L. Harris, of Illinois; John W. Stevenson, of Kentucky, and Lucius Q. C. Lamar, of Mississippi, afterwards Attorney-General under President Cleveland, and by him appointed a justice of the Supreme Court of the United States, which position he occupied to the day of his death. He was an active member of that court on the 29th day of February, 1892, when he concurred in the opinion that day filed by Justice Brewer in United States *v.* Ballin, reported in 144 United States Reports, commencing at page 1, in which, passing upon the rule adopted by this House in 1890 for the counting of a quorum by the Speaker, that court said:

The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which, once exercised, is exhausted. It is a continuous power, always subject to be exercised by the House, and, within the limits suggested, absolute and beyond the challenge of any other body or tribunal.

In the debate in the House, in Davis *v.* Brooks, Mr. Boyce, of South Carolina, who had presented the majority report, said:

I suppose there is no difference of opinion as to the law of the case. By the Constitution the House is made the "judge of the elections, returns, and qualifications of its own members." This power, being granted by the Constitution, is above all law, and can not be taken away or impaired by any law. * * * There is no doubt, then, as to the power of the House to proceed, independently of the act of 1851, in this case. If the House thinks proper, it can, through a committee or by a commission, take the testimony in this case. The only question is as to the expediency of so doing. The question for the House is not as to its power—that is conceded; the question is as to the propriety of the exercise of that power in this particular case. I am decidedly of opinion that the House should not interfere in the matter, but let the parties concerned prosecute the case under the act of 1851.

Mr. Phillips, of Pennsylvania, who had presented the minority report, said:

Attempts were made to enact similar laws in 1806, in 1810, and in 1820, and on all those occasions the power of Congress to regulate the mode of taking proof in inquiries into the validity of elections was denied by a majority of the body. In 1851 this law was passed. The minority of the committee * * * most emphatically deny that there is any power in this law, or that there is power in any law the Congress of this nation can pass, to restrict either the House of Representatives or the Senate from inquiring into the election, qualifications, and returns of its own members. The Constitution prevents it. It says that "each House shall be the judge of the elections, returns, and qualifications of its own members." Each House, the minority claim, has the right to judge of the elections, returns, and qualifications of its own members, just as each House may, by the grant of power in similar language, determine the rules of its own proceedings; and that an attempt upon the part of a prior Congress, or an attempt upon the part of a coordinate branch, to restrain and restrict this House from looking into the returns and elections of its own members would be as futile and vain as similar attempts would be to regulate the rules of proceedings of this House.

Mr. Wilson, of Indiana, in reply, said:

I think, and a majority of the committee agree, that this law of 1851 is not imperative; that it is not binding, and that is a sufficient answer to the position of the gentleman from Pennsylvania [Mr. Phillips] in regard to his constitutional objection. We do not consider the law of 1851 as imperative, but we do consider it a good, safe, and proper rule to be adopted by the House and by the committee in all contested-election cases.

Mr. Bowie, of Maryland, said:

But when you come to form it into a law, and the legislative power of the Government—the Congress—and the Executive come to tell us how we are to regulate the rules of our House, I pass it by as a usurpation, and it falls dead beneath my feet. The power of that law of 1851 is nothing—nothing as as a law, certainly.

Mr. Washburn, of Maine, said:

I think that the law of 1851, though I hold it to be merely directory, provides for taking testimony under it.

The House appears to have been nearly, if not quite, unanimously of the opinion that it was in no wise bound by the act of 1851, but it adopted the committee's resolution to the effect, in that particular case, there still being time for the taking of testimony under the act of 1851 it was inexpedient to adopt the other method desired by the contestant.

I have quite a long list of cases in which the House has disregarded the act of 1851. It would be a waste of time to discuss them all at length, but as matter of historical interest I shall, with the consent of the House, include some reference to them as part of my remarks. I wish now to invite attention to a very important ruling upon this precise point.

In the Thirty-sixth Congress, in 1860, the question whether the act of 1851 had any binding force upon a subsequent House was fairly and squarely presented for consideration in a case which has since been considered the ruling case upon the subject.

The seat of Daniel E. Sickles, of New York, was contested by Amor J. Williamson. He did not proceed under the act of 1851; he filed no notice of contest, as required by that act, and took no testimony. More than a year after the election he presented a petition to the House asking for a committee to take testimony.

The matter was referred to the Elections Committee. Mr. Dawes of Massachusetts presented its report, in which the majority said:

The committee do not consider the law of 1851 as absolute binding force upon this House, for by the Constitution each House shall be the judge of the elections, returns, and qualifications of its own members, and no previous House and Senate can judge for them. The committee, however, consider that act as a wholesome rule, not to be departed from except for cause.

The report was signed by five members. It recommended the adoption of a resolution providing that Williamson serve upon Sickles within ten days a particular statement of the grounds of his contest; that Sickles be required to serve his answer in twenty days, and that sixty days be allowed for the taking of testimony after the service of answer, the testimony to be taken before some justice of the supreme court of the State of New York, residing in the city of New York. This method was wholly at variance with the act of 1851.

Mr. John A. Gilmer presented the report of the minority, opposing the resolution and declaring squarely—

That it is not competent for the committee to recommend any action to the House which involves a violation of the law of 1851, because as a law of Congress it is obligatory alike upon the House, the committee, and the contestant; that the act relating exclusively to the initiation of the proceedings, the taking of testimony, and the preparation of the case for the decision of the House, does not infringe upon the constitutional prerogative of the House to judge of the election, return, and qualifications of its members.

The resolution reported by the majority was adopted by the House—yeas 80, nays 64. This case is reported in 1 Bartlett, page 288.

In the Thirty-seventh Congress, July 8, 1861, the House, without debate or division, passed the following resolution:

Resolved, That the papers in the case of the contested seat of the Delegate from the Territory of Nebraska be referred to the Committee on Elections, and that they be authorized to investigate and report on the same without regard to notice.

In the Thirty-ninth Congress, December 5, 1865, the governor of Pennsylvania having failed to certify which party had been elected, the House passed the following resolution:

Resolved, That the certificates and all other papers relating to the election in the Sixteenth Congressional district of Pennsylvania be referred to the Committee of Elections, when appointed, with instructions to report, at as early a day as practicable, which of the rival claimants to the vacant seat from that district has the prima facie right thereto, reserving to the other party the privilege of contesting the case upon the merits without prejudice from the lapse of time or want of notice.

The majority of the committee reported January 26, 1866, that Coffroth had the prima facie right to the seat, and recommended the adoption of the following resolution:

Resolved, That William H. Koontz, desiring to contest the right of Hon. Alexander H. Coffroth to a seat in this House as a Representative from the Sixteenth district of the State of Pennsylvania, be, and he is, required to serve upon the said Coffroth, within fifteen days after the passage of this resolution, a particular statement of the grounds of said contest, and that the said Coffroth be, and he is hereby, required to serve upon the said Koontz his answer thereto within fifteen days thereafter, and that both parties be allowed sixty days next after the service of said answer to take testimony in support of their several allegations and denials, notice of intention to examine witnesses to be given to the opposite party at least five days before their examination, but neither party to give notice of taking testimony within less than five days between the close of taking it at one place and its commencement at another, but in all other respects in the manner prescribed in the act of February 19, 1851.

The report of the majority was sustained, Coffroth was seated, and Koontz became the contestant. As the result of the contest, Coffroth was unseated and his seat given to Koontz.

It will be observed that both the majority and minority of the committee, and the entire House, appear without dissent to have considered the act of 1851 as of no binding force, the entire contest having been carried on outside of, and in conflict with, its provisions.

In the Fortieth Congress, July 9, 1867, Mr. Dawes, from the Committee on Elections, presented the following resolution, which was agreed to by the House:

Resolved, That in each of the cases of contested election from Kentucy the time for taking the testimony is hereby extended to the 1st day of December next, in all things conforming to existing law, except that such testimony may be taken before a notary public.

Mr. Randall of Pennsylvania participated in the debate. No one raised any question as to the competency of the last two lines, which were in direct conflict with the act of 1851. (See Congressional Globe, Fortieth Congress, first session, p. 546.)

In the case of Bisbee *v.* Finley, as reported in 2 Ellsworth, page 172, it was held that—

The provisions of the statute in reference to the taking of testimony in these cases are directory, constituting only convenient rules of practice; and the House is at liberty, in its discretion, to determine that the ends of justice require a different course.

In that case the minority report was presented by Mr. F. E. Beltzhoover, of Pennsylvania, a prominent lawyer and Democrat, now living in my own district. In that report this language is used:

The House is the exclusive judge of the qualifications, elections, and returns of its own members. In the exercise of this prerogative it is not bound by the technical rules of judicial procedure, nor even by its own precedents. These may be persuasive, and in so far as they embody the wisdom of experience, enlighten the mind and contribute to right conclusions. In the exercise of this attribute of sovereignty the House is charged in the ultimate with the maintenance of the right paramount and preservative of all other rights—the elective franchise. Therefore the House is absolutely untrammeled and answerable only to the sovereignty where this power emanates. The electors can and should accept no apology for any evasion or abuse; every case should be decided upon its own merits, and electors should accept no other conclusion than the vindication in fact of the right of representation.

In the Forty-seventh Congress a case arose analogous to the one in hand. A special election had been held in the Fourth Congressional district of Alabama November 7, 1882, to fill a vacancy caused by the unseating of Charles M. Shelley. The time for taking testimony, under the act of 1851, would extend beyond March 4, when Congress would expire by constitutional limitation. The contestant asked that some other mode of procedure be prescribed. January 22, 1883, Mr. Raney, from the Committee on Elections, reported in favor of appointing a special committee to take testimony, with power to send for persons and papers. Mr. Beltzhoover, from the same committee, in behalf of the minority, filed a report holding that no good cause had been shown and alleging negligence on the part of the contestant. The minority, however, admitted that the act of 1851 was not binding, and in its report said:

It is true that it has been held that the acts of Congress regulating contests are only directory and not imperative, and may therefore be disregarded by the House if it sees proper to do so; but all the best interests of fair trial and just judicial determination are largely subserved by adhering to the regular prescribed methods. McCrary says: "They (the statutes regulating the mode of contesting elections) constitute wholesome rules not to be departed from without cause" (sec. 349). This was settled by the House in the case of Williamson *v.* Sickles (1 Bartlett, 288). The contestant, through his memorial, asks Congress to take a short cut outside of the law for the disposition of the case by the appointment of a special committee, with summary powers and authority to act according to its own discretion. There are strong reasons why this extraordinary relief should be refused and the regular practice be adhered to.

First. The contestant complains that the time is insufficient to finish his contest in the way prescribed by the statute. But there is no evidence that this is so, and even if it were, he has been guilty of laches in conducting his case. He might have begun about thirty days sooner than he did and thereby saved a large portion of the brief time which of necessity remained to him to test his rights, and which he now complains is too short.

The case is reported in 2 Ellsworth, page 681, and in Rowell's Digest, page 394.

In Paine on Elections, section 996, referring to the act of 1851, the learned author says:

It is provided by law that a party proposing to contest the right to a seat in the House of Representatives of the United States shall, within thirty days after the determination of the result, serve upon the party in whose favor the result shall have been determined a notice specifying the grounds of the contest; but, while the failure to serve such notice will exclude the party from the privileges of a technical contest, it will not affect the power of the House, in its own discretion, to investigate the case and to award the seat to the party lawfully entitled thereto.

And, again, in section 1003, he says, concerning the same statute:

The statutory provision prescribing the time within which the notice of contest is to be served is not obligatory upon the House of Representatives. A mere failure to serve this notice within the period limited by the statute will not always result in the dismissal of the contest without a trial of the case on its merits. The Federal Constitution does not permit the House to be fettered by this statute. Since the enactment of the statute of 1851 no contest has been dismissed without a trial on the merits upon the sole ground that the notice was not served within the period of thirty days limited in the statute.

The following cases also have more or less bearing upon this question: Fuller *v.* Dawson, 2 id., 126; McGrorty *v.* Hooper, 2 Bart., 211; Thomas *v.* Arnell, id., 162; Hunt *v.* Sheldon, id., 530; Sheafe *v.* Tillman, id., 907; Kline *v.* Verree, 1 Bart., 574; Chapman *v.* Ferguson, id., 267; Howard *v.* Cooper, id., 275; Vallandigham *v.* Campbell, id., 223; Bell *v.* Snyder, Smith, 247.

And there is the very recent case of Benoil *v.* Boatner, in the Fifty-fourth Congress. There was no discussion of the question, but the action of the House was in conflict with the law of 1851 and the law of 1887.

I do not desire to consume time unnecessarily, and shall dwell no longer upon that aspect of the case. Here we are confronted by the proposition that if we adhere to these provisions of the act of 1851 we can not hear and determine this case at this session. The gentleman we have once rejected as not legally elected comes up here from the same district. Practically the same allegations are made as those which were proved in the first contest. The contestant shows evidence of some faith and claims to be able in fifteen days to prove his case. The only question is, Shall we hear him or shall we not? Shall we exercise the powers which the Constitution devolves upon us and obey the command which it places upon us to judge of the elections, qualifications, and returns of members of this House, or shall we sit here supinely and let this matter go?

If it is proper at this time to refer to the substitute resolution offered by the gentleman from Indiana [Mr. ROBINSON], the objection to it is that it provides a plan which would consume even more time than to proceed under the act of 1851. It authorizes a committee of this House to go to Missouri and take testimony. The statute now provides that testimony may be taken in two or more places at the same time. The taking of testimony can go

on at a dozen different places simultaneously. If this House appoints a committee, it can sit only in one place at one time. It would take ten times as long to take the testimony in that way as it would to take it in the usual way, and of course it could not come before the House in time for consideration at this session. Let us so proceed that the testimony may be concluded, the case heard, and justice done before the Fifty-seventh Congress passes into history. [Applause.]

Mr. ROBINSON of Indiana. Mr. Speaker, this contest is precipitated on the contestee, on the Committee of Elections No. 2, and on the House by the circumstances of the case, and in them only can a justification be found for these unusual proceedings.

It does not come to us in the usual and orderly way provided by law for the determination of election contests.

We do not deny the power of this House to make all needful rules and regulations to secure purity and regularity in the election of its members. This is fundamental and exists by virtue of the constitutional provision "each House shall be the judge of the election returns and qualifications of its own members."

This plenary right is not abridged by a former legislative enactment.

The House has the power in the modes outlined in the resolution presented and the substitute offered thereto to take such action as in its judgment will secure a determination of this contest, if possible, in the limited time allotted, measured by the life of this Congress.

Three questions appeal to our judgments at the very threshhold of this inquiry, when we come to fix what time would give a fair and judicial determination of this case within which it must be circumscribed to be decided at all.

Missouri, a sovereign State, has her laws to secure the fair election of her Representatives, and, the presumption attending the last election under the State laws, we have the contestee, her Representative, holding a certificate of her governor and a sitting member. The rights of individual citizens must be subordinated to the rights and interests of the State so far as to exclude this House and the Federal authority from deciding against the State till a case fully considered is made out against the regularity of the election.

The House is interested deeply for the security of its membership and the integrity of its proceedings to see that the fullest opportunity is given, the best efforts made, and the fullest time accorded to investigate, hear, and determine questions involving the rights of the State and the rights of the House.

The wisdom of Congress that has stood the test of half a century has given us the mode of procedure that governs in election cases.

The contestant has rights and interests in the contest as has the contestee, but these must be submerged to the other two great interests of the State and of the House.

Whoever holds a seat represents his State as he understands her interests to the best of his ability, and no State should have her accredited representative disturbed except upon the safest and surest grounds.

Nor should politics cloud our judgments on this proposition.

There is no politics in it. You can not get a proposition involving politics from Elections Committee No. 2, and I point with pride to its spotless record of six years in three Congresses, where this Elections Committee has never divided, but were always unanimous, and only occupied the attention of the House when it wanted the House to confirm, as it wisely and generously did, its conclusions, seating Democrats and Republicans alike. So there is no politics in the case in the committee. If politics entered into it, it would be Missouri politics, on the side of allowing the contest to go on. We know the results in districts of unseating sitting members. We find it here. Before I get through I will show you the condition that prevailed in the State of Missouri where a factional fight produced the result—the election of Mr. Butler by an overwhelming majority of 6,000.

The law governing election contests, so far as it concerns us, and which have been considered safe and wholesome procedure till now, was passed in 1851, and provides:

Whenever any person intends to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing, to the member whose seat he designs to contest, of his intention to contest the same, and, in such notice, shall specify particularly the grounds upon which he relies in the contest. (R. S., sec. 105.)

Any member upon whom the notice mentioned in the preceding section may be served shall, within thirty days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests the validity of his election, and shall serve a copy of his answer upon the contestant. (R. S., sec. 106.)

In all contested election cases the time allowed for taking testimony shall be ninety days, and the testimony shall be taken in the following order: The contestant shall take testimony during the first forty days, the returned member during the succeeding forty days, and the contestant may take testimony in rebuttal only during the remaining ten days of said period. (R. S., sec. 107.)

By the act of March 2, 1875, it is provided that section 107, Revised Statutes, shall be construed as requiring all testimony in cases of contested election to be taken within ninety days from the day on which the answer of the returned member is served upon the contestant. The law further provides that as soon as the testimony in any case is printed the Clerk shall forward by mail, if desired, two copies thereof to the contestant and the same number to the contestee; and shall notify the contestant to file with the Clerk, within thirty days, a brief of the facts and the authorities relied on to establish his case. The Clerk shall forward by mail two copies of the contestant's brief to the contestee with like notice.

These laws stand as a bulwark to State rights to the integrity of the State laws. You seek to change their entire scope and sphere and cramp within a narrow compass the consideration of an election case because some contestant is interested. How is this contest presented to the House? By a petition of a citizen of the State of Missouri, the contestant himself the only signer. The contestant is not a resident of the district for which he seeks to carry on this contest; but by a petition he presents to this House the points stated by the gentleman from Pennsylvania [Mr. OLMSTED], and asks us to fly in the face of long-established law, to determine in this unusual way a contest that can not be carefully prepared and determined in the time that the committee proposes to fix.

The last Butler contest, involving these same propositions, was heard on only one side, and there are 2,200 pages of testimony, and every question there involved is involved in the petition here presented. Was there surplusage in that case? Was the evidence not germane? I cite the language of the report of the distinguished gentleman from Ohio [Mr. TAYLER] in that case, where he says:

A vast amount of testimony was taken, a surprisingly large portion of which was relevant to the issue.

Yet, in the space of twenty days, where before the contestant alone had fifty days, this case must be cramped, and members must judicially determine this contest on that kind of an insufficiently prepared case.

What else do we find? About a thousand witnesses were examined on only one side. Look at their names [exhibiting pages containing names of witnesses], a thousand witnesses. Mr. Butler took no evidence, but the 2,200 pages of the record was the evidence of contestant only. Yet the House is asked to break down the law in order to give a hearing to this contest in this brief time in order to give a hearing to a contest of which the Elections Committee at the last session said:

It appears that about 5,000 votes were cast for the contestee, about 2,000 for the contestant, under names and addresses which careful canvass could not discover as representing actual residents. We can not apply one rule of inference to one side and refuse to apply it to the other; nor can we, when so many votes apparently tainted with fraud are involved, determine that he who has least benefited by them shall be declared elected.

That is the language of the committee in the contest involving the same questions that are in this. Then again they say:

In so far as the force of this particular item of testimony is alone considered, unaffected by the other evidence in the case, it would appear that the iniquity of the Republican managers differed from that of the Democratic managers only in degree.

This is the case presented to us. This is the kind of case in which it is proposed that we in an irregular manner shall unduly limit the time. If you open up the field on such considerations as are urged here and say that such a case is exceptional, how long a time would you give to the Delegate from Hawaii, who requires thirty days to go to his home and thirty days to return? How much time will you give to a Californian whose seat is questioned by the petition of a single citizen of his State? How long a time will you give him to take his evidence and prepare his case, when it takes him six or seven days to get to his home?

Will you adopt one rule for Maryland and Virginia, another for California, another for Missouri, another for the Hawaiian Islands? When we leave the strong, safe guide that the law establishes, we know not where we shall drift. Unless we take as our rule a full and fair time to prepare and hear the case we will have a shifting policy. It will be a rule of expediency and not a rule of fixed law to govern us. Under such a system, or rather no system, no member would feel safe during his term, and until time had sealed it there would be no security. I ask you to take this case to yourselves. The seat of any member may be questioned in like manner by a petition showing what is styled a prima facie case for the purpose of having a contest inaugurated. In my experience under the drastic provisions of the law abuses have arisen, but what will it be with the majority resolution as a precedent? Under the established law a contestant with but a thousand votes in a Philadelphia district, assuming probably that he had a prima facie case, pursued his contest and got his $2,000. Another from Louisiana, with a few hundred votes, tried to do so, and the next Congress is to be treated to the spectacle of a contestant from South Carolina with less than 200 votes trying to do so.

We are not without evidence as to the great importance of this contest and its great field of inquiry, with the vast number of

witnesses—a question in which not only the State is interested, but the House and the contestant and contestee, but in which there are other interests. Why should we undertake to determine a case of this kind in an injudicial way without the safeguards ordinarily observed in order to insure fair consideration? Tell me why?

Mr. Butler was elected on the face of the returns in November, 1900. He acted as a member from March, 1901, and took his seat in December, 1901. He sat in this body for a year and three months—until June 27, 1902—to enable Elections Committee No. 1 to pass upon this great question.

Mr. MANN. Will the gentleman pardon an interruption?

Mr. ROBINSON of Indiana. If the gentleman will be quick about it.

Mr. MANN. Why does the gentleman dwell upon the time spent by the Elections Committee No. 1 on this case, when he knows that the committee did not take up the question in this body until December?

Mr. ROBINSON of Indiana. But Mr. Butler was a member, and the election contest was filed.

Mr. MANN. But it was not pending before the committee.

Mr. ROBINSON of Indiana. It was pending seven months before the committee. I am making no criticism or aspersions, and I do not see why the gentleman should take up my time in this way, because I have perfect faith in him and the other members of his committee, as I have in all other members of the House. I am ready to concede that the Elections Committee No. 1, in accordance with its numerical style, "No. 1," is the best election committee in the House, composed of the best members, a committee that always performs its duty, working hard, and doing justice as it sees it.

But it took this committee seven long months with all its application to consider this case, and when they got through considering it, instead of seating the contestant, whose interests seem to be the special object of our solicitude and care, they refused to seat the contestant because there was a doubt on his side of the case as well as on the other. So I compliment the committee.

Mr. Speaker, I never have and I never shall in this House stand for irregularity and for fraud. I shall always stand for a fair determination of a case. We have not heretofore been surprised, nor will we hereafter be surprised, if irregularities and frauds do sometimes crop out in large cities the size of Philadelphia and St. Louis. It is incident to congested populations and the spirit in waging contests. It should be corrected, but I hope Congress never will go to the extent of denying fair and full consideration, for a judgment without a fair hearing never acted as a repressor. In the orderly procedure of the House in the care that it has for the sitting member's rights, as well as those of the contestant, I hope we will not carry to a hurried hearing and consideration the great questions here involved.

What are some of the questions involved in this case? Affidavits are presented with the petition to make a prima facie case. I will not be able to take them up in regular order or be able to refute them, except by evidence gathered from St. Louis in the greatest haste to meet the hurry imposed upon us, but I will tell the members of this House that the Twelfth Congressional district of Missouri, old and new, always was a Democratic district by from 2,500 to 3,000 majority until the questions of 1896 and 1898 changed it over, and in this last election, after the splendid Elections Committee No. 1 waiting seven months to consider this same case, which is on all fours with the one under consideration, giving their judgment sending both parties back to the people, the district voted, and when the election returns came in it was found that the supreme judge ran two or three thousand votes ahead of Mr. Butler, although Mr. Butler's majority is over 6,000.

Yet the regularity of Mr. Butler's vote is questioned, where it was less than the votes of other candidates. In apology to the House I will say that I can not present in regular order these various matters; they are presented now not on the merits, but to show the issues and to show the needs of evidence and time to meet them. I can show to the House some of the reasons why this contest can not best be determined in the time allotted by the manner proposed by the majority of the committee, and that the substitute resolution should be adopted. To the members of this House I exhibit some evidence why James J. Butler, after having been unseated last session, could go back to his people and return from that reliably Democratic district with a large majority.

In evidence of that I have copies of something like a dozen certificates, Republican, of nomination that were filed there. These cases must be inquired into in this contest. The Republican State committee ousted from office 20 out of 28 members of the Republican city central committee in St. Louis. Dissension and factional fights bristled all over the politics of St. Louis. The first petition that I present is a petition by Mr. Wagoner, contestant for the short term. That is one. Another petition is by Loffhagen for the long term, and another petition by Reynolds for the long term, and another petition by Reynolds for the short term.

Mr. COWHERD. Will the gentleman pardon me? He means that these are petitions in order to get their names on the ballots.

Mr. ROBINSON of Indiana. Petitions for nominations as Republican nominees. Here is a petition by the central committee to have Reynolds nominated for the short term—all matters of public record that we must go into. That is affirmative matter which Mr. Butler must file in his answer and about which he must take evidence, which in its character would be new to that taken in the old contest. Then the central committee filed another petition for nomination by Reynolds for the long term, all in the Twelfth district.

A regular convention was called, and that convention nominated Reynolds for the long term. Then another convention was called which nominated Reynolds for the short term. Remember, there had been a redistricting, and the districts were not the same. Neither Reynolds nor Wagoner are residents of either one of these districts; and while that is not material in their right to run, it may have some effect when it comes to the question of voters voting their choice. Then a regular minority convention nominated Wagoner for the short term and Loffhagen for the long term. Loffhagen then withdrew for the long term, and Reynolds withdrew for the short term.

Here again we have the record evidence under the law of Missouri that two separate committees were claiming to act as the Republican committee. Then here is a central committee nomination of Wagoner for the short term. Under those circumstances surely no one will claim that in a district which has been reliably Democratic for a long time, a Democrat would not have been elected. But we must prove it in this case, and it takes time to do these things. Mr. Speaker, I will ask to have read a newspaper article from the St. Louis Republic, a Democratic paper, always against Butler, which shows something of the situation which the contestee needs time to place in evidence.

The Clerk read as follows:

CLEAN HANDS NEEDED.

With all their fury of rhetoric about election laws the Republicans have failed to direct attention to the most flagrant violation of existing statutes that has occurred in recent years. Until Republican organs and politicians show that they have sincerity they are entitled to small consideration.

By the election laws of this State the Republican organization in St. Louis had absolute control of the fall primary. The city committee appointed the judges and clerks without interference from any source.

Party responsibility could go no further. Yet what was the practical result? The returns from the Third Ward were at the board of election commissioners an hour after the time for closing the polls. The vote was 932 to 62 in favor of the organization's candidate for city committeeman, showing that the officials in this ward hold the record for rapid counting.

In the second justice district Charles Boettger was counted out by a vote of 1,427 to 697. He instituted contest proceedings, and after a hearing in Judge Spencer's division of the circuit court a recount was ordered. It was found that about 800 more votes had been counted in two wards, the Seventh and Eighth, than had been cast, and that Boettger was entitled to the nomination by a majority of over a hundred.

These are only two of the worst cases of fraud which were practiced in the Republican primary. Only those who are familiar with the practices in that farcical proceeding can realize the extent of the underhand work which was done in electing a ticket favorable to the new city committee.

In view of those frauds what right has the Globe-Democrat to declare that "One of the first Republican reforms will be an honest vote for every citizen, without regard to his party and without asking him to consider honest elections a party favor?"

Until the Republican politicians can show clean hands there will be no public respect for those who prate of the robbery of the ballot. There may be faults in the present election law, but the people of this State and the members of the general assembly will not allow the men who displayed such crookedness in the primary and who are now preaching reform with such diligence to be labeled as patriots contending against a thieving majority.

IN THE THREE CITIES.

Sane Republicans in Missouri who hoped that the school fund settlement at the polls would relieve them of the incubus of lobster leadership are in a way to be disappointed. They are being forced into another two years of ridiculous party contortions before the State's voters. The election law issue is developing a lobster policy of making amendment of the law impossible and going into politics on villainous falsification of facts.

The Globe has constructed an elaborate table to show that the Republican vote fell away more noticeably in the three cities—St. Louis, Kansas City, and St. Joseph—than in the counties, and all on account of a statute.

Anybody would admit the fact, and anybody who reads about politics, even in the Globe, would have no trouble in assigning the cause where it belongs.

In St. Louis the rottenness of a Republican machine had caused the election of Democrats. Mayor Wells and Circuit Attorney Folk had splendidly justified the public verdict. Thousands of Republican voters in St. Louis voted the Democratic ticket this year in order to encourage good officials.

But that is not all. The Republican organization was more thoroughly disorganized than it has been since the war. The Globe had participated in a fight which defeated the old city committee. The old crowd controlled most of the established machinery. Impotence in getting out the vote succeeded. This was evident in the absolute absence of effort to register party voters. A great part of the old crowd joined hands with the Butler element and followed Jim Butler's orders. Democrats can not well boast of that coalition, but, at least, neither the election law nor a State board could be held to account for the indifference and treachery of Republican machine workers.

In Kansas City a somewhat similar condition operated. Kerens had been rebuked. His ambition to secure the minority nomination for United States Senator had been stricken by the Jackson County instruction for Warner. The Kerens crowd, headed by Dickey, were "sore" and not inclined to glorify

their rival spoils hunters. There was no semblance of a vigorous Republican campaign in Kansas City, while the Democrats were better united and more aggressive in campaign work than they had been for years.

St. Joseph presented a case not essentially different, though the sides were reversed. The Kerens fusion with the Public Ownership leaders was carried out there, though it fell to pieces in the other two cities. The public Ownership vote did not materialize—the voters refusing to be delivered like cattle to Kerens—and the majority of St. Joseph Akins men, or Silk Stockings, either quietly voted the Democratic ticket or did not vote at all.

The Globe and Republicans who read the Globe are familiar with these facts, for the Globe was in the fights and told about them. The fight for Akins being one of the few praiseworthy acts of the Globe, it should not now pretend that there was no fight.

The Republican party in the three cities can fully understand the drop in its vote without charging results to an election law.

Mr. ROBINSON of Indiana. Now, Mr. Speaker, this shows that there is no politics in it, surely, but that we ask only a fair consideration of this case.

Mr. OLMSTED. Will the gentleman yield for a question?

Mr. ROBINSON of Indiana. Surely.

Mr. OLMSTED. While he seems to be going somewhat into the merits of the contest rather than the merits of this resolution, and has read from the leading Democratic paper, I will ask the gentleman if it is not a fact that that Democratic paper holds and maintains and has published numerous articles to show that the sitting member here [Mr. Butler] was not honestly elected.

Mr. ROBINSON of Indiana. The gentleman states it correctly, but this is not a statement to go into the merits of the controversy. It is suggested to me by Mr. Butler that the paper has not made that statement of this contest, I would say in reply to the gentleman from Pennsylvania.

Mr. FEELY. If the gentleman will yield, I think I can answer the inquiry of the gentleman from Pennsylvania. Like several other members of the House, I have been memoralized during the last two weeks by the paper to which he refers, and articles have been cut from the paper, marked with a blue pencil, and sent to me for consideration; and in none of the articles that I have received was there the information that Mr. Butler had not been honestly and fairly elected a member of Congress from Missouri. But I was memorialized as a Democratic member of the House, and requested to use certain criticisms and insinuations against the character of Mr. Butler as a motive in deciding my vote in this contest. I would say, in answer to the gentleman, that in none of these memorials or clippings was the statement vouchsafed that Mr. Butler had not been honestly and fairly elected on the returns.

Mr. JOY. What paper is that?

Mr. FEELY. The St. Louis Republic.

Mr. ROBINSON of Indiana. Now, Mr. Speaker, I wish to correct my former answer. The fact is that in no instance that I know of has this paper said that Butler was not elected this time. These matters are simply shown to give the members of the House a fair view of the conditions that prevail, that must be ascertained by the evidence to warrant fair consideration.

The municipal ownership party in the large cities of Missouri desired a fusion with the Republican party. This was largely favored by the rank and file and opposed by the others. It caused a split in the Republican party in the large cities. It affected not only this district and caused it to have a large Democratic tendency, but it affected the districts of distinguished gentlemen from St. Louis who are now sitting upon the floor of the House, and throughout the cities of Missouri it had the same effect.

It is said by some, and not without show of reason, that the purpose of this contest is to secure an inspection of the ballots in the contest that can not be secured in a contest of a State or county officer; and on that inspection, by the law, where the voter is numbered on the polling book and the ballot is numbered to correspond, under this kind of an investigation it can be known who are traitors to the Republican party as it was known and published once before. Now, on page 41 of the report of the Election Committee in the last contest, we find this statement:

3. Discrepancy between testimony of witnesses and their ballots when examined.—Of the witnesses examined, 479 were asked how they voted on candidates for Congress. Of these, 120 testified that they had voted for Butler, 268 that they had voted for Horton, and most of the remaining refused to say for whom they had voted.

An effort was made to learn from the ballots how these persons appeared to have voted. It was disclosed that 113 were counted for Butler. Of the 268 who testified as voting for Horton the ballots show only 5 to be for Horton. The remainder were missing, or rejected, or had both names, or were marked for the third party candidate. On 54 of them Horton's name was scratched and no one was voted for for Congress.

What a splendid wedge to put in among these discordant, dissenting elements in St. Louis.

But these facts must be elaborated in evidence, and it took 2,200 pages of evidence to do it in the former case on the part of contestant alone. In addition to that we have the question of nomination in this contest. Unwisely, I think, there was no evidence taken by Mr. Butler before.

Now let us get down to some of the grounds of the contest, as shown by the petition presented which incorporates the notice of contest.

First. Because, although according to the abstract of votes forwarded to the secretary of state and proclaimed by the board of election commissioners of the city of St. Louis, Mo., there appears a prima facie majority of 6,294 votes in your favor, yet, when all the legal votes cast for me at said election shall have been properly counted, and all the illegal votes cast for you, and all the false, fraudulent, irregular, and illegal ballots heretofore counted for you shall have been rejected, and only those ballots which were cast in said election for said office by persons duly and legally qualified as electors are counted, it will appear that the undersigned contestant was legally elected to said office of Representative in Congress by a large majority of all votes legally cast for said office in said district at said election.

Second. Because the judges of election in many precincts of said district rejected legal and proper ballots proffered by duly qualified voters and placed them in the "rejected-ballot" envelopes and returned them to the board of election commissioners of the city of St. Louis, the acting returning and canvassing board of election commissioners in said district, and, further, refused to permit at least 500 legal voters of said city and district on said day, and who appeared at their proper polling places to vote for the undersigned, from casting votes at such election.

Third. Because a large number, to wit, over 10,000 illegal ballots were received and counted by the judges of election at said election, which ballots were cast for you by parties not entitled to vote at said election, for the reason that they were not residents of said district or the precinct in which they voted, or they assumed the names of voters who were dead or had removed, or the place where they purported to live were vacant lots. The parties so voting were not legally registered voters and entitled to vote at said election.

Fourth. Because a large number, to wit, 2,000 duly qualified voters living in said district who had theretofore been duly registered, were wrongfully and illegally stricken from the registration lists, and although they appeared at their proper precincts on said election day and proffered their votes for contestant for said office, their votes were refused and said voters were illegally deprived of their right to cast their votes.

Fifth. Because in each of the precincts of the wards composing said district, a large number of ballots, exceeding 100 in each precinct, were counted and returned for you by the judges of election, which ballots appeared from their numbers to have been the ballots of persons whose names were on the poll books, when in truth and in fact the names on said poll books whose numbers corresponded to the number of said ballots were the names of persons who did not appear at said polls on said day, being either dead or myths, or persons who had never lived in said ward or district, or had removed from said ward, and were for these and other reasons not entitled to vote, and whose names were voted upon by individuals unknown to me, and commonly called repeaters.

Sixth. Because the judges and clerks at many of the precincts did not correctly count the legal ballots, but counted in your favor and for you a total of 10,000 or more votes which were and are fraudulent and illegal.

That is a pretty wide range for this committee to determine and for the House to consider in the time that this committee limits. Then there are enumerations of 150 illegal votes in one precinct, 400 in another, and so on, giving a great many.

Seventh. Because in the first, second, third, fourth, fifth, sixth, seventh, and ninth precincts of the Fourth ward, and a number of others, the clerks of election, officiating at the polling places of said precincts, were in a combination and a conspiracy, the purpose of which was to make the returns of election in said precinct to show large majorities in your favor, and not only permitted repeaters and fraudulent voters to cast fraudulent ballots, but did make wholly false and fictitious returns.

Eighth. Because in the precints and wards mentioned in the paragraph last preceding large numbers of fraudulent ballots were placed in the boxes which were not even cast by persons claiming to be voters; that in the first precinct of the Twenty-second ward there were 395 votes counted by you and 8 for contestant, making a total of 404 votes, while, as a matter of fact, the total registered vote in said precinct was 208.

Now, my friends, this is matter presented as showing a prima facie case, and it is presented on the affidavit of a citizen, and another affidavit as to another precinct is made, and yet the true record shows that there were 459 registered voters in precinct 7 of the Twenty-second Ward, while this affidavit alleges that there were only 208 voters in it registered. In the two instances where the affidavits are presented the statements are false. In his affidavit this same citizen swears that there were but 169 persons duly registered in precinct 7, Ward 4, but the record shows a total registration of 670.

Ninth. Because of the returns of said election in most if not all of the voting precincts of the Fourth and Fifth wards, etc., are untrue and entirely false and that the returns therefrom should be rejected altogether.

Tenth. That persons whose names are to the contestant unknown entered into a combination and a conspiracy to place upon the registration list of voters the names of many unqualified persons, and that in pursuance of said conspiracy a large number of claims, to wit, not less than 10,000—

Butler's vote was 16,844, the contestant's 10,551.

That said names were wrongfully permitted to remain upon said books by the judges and clerks of the respective precincts in said district; that many of said judges and clerks were participants in the said unlawful combination and conspiracy.

Certainly this is a sweeping declaration that will require the calling of the Republican clerks and judges all along the line.

That according to the best information of the contestant the whole number of fraudulent and illegal votes cast is at least 10,000 votes.

Then he ends with the eleventh specification, the Nesbit election laws of Missouri.

The authority, the case of Benoit *v.* Boatner, is offered as justifying the action of the House. In that case the evidence had all been taken, ample opportunity had been given, and by the unanimous consent of the House, the consent of the contestee included, they waived the time of presenting briefs.

Now, Mr. Speaker, the resolution I offered provides, as was provided by the Committee on Elections, of which the gentleman

from Iowa [Mr. LACEY] was chairman, in the Fifty-first Congress, in the case of Clayton *v.* Breckinridge (Arkansas), twelve years ago, that a committee be appointed, composed of five members of Election Committee No. 2, whereby this taking of the testimony and the consideration of the contest will be facilitated.

In that way the majority of the committee will hear the evidence of the witnesses in the first instance, will exclude irrelevant evidence, and then the committee, returning to this city, by a fair presentation by argument can report to the House, and the House can determine fully and judicially this contest within the life of this Congress. That is the precedent set in this House. It is wise in the House to follow it. If this House means to break down the law in this special case and not afford the best means for a full hearing and determination, you open a floodgate which may come back to plague you in the future.

I think it is an unwise precedent to establish. I think it is not fair to the State of Missouri, it is not fair to the membership of this House; and the rights of the contestant are not superior to the rights of the House. It is impossible to secure the evidence and present the case to the committee or to the House in the fashion molded by the resolution of the majority of the committee. By the committee hearing the evidence saves the time for its consideration after it reaches here, and the evidence can be printed with expedition and be given to the other members of the House for inspection, and that time would be saved. This is in the interest of due consideration.

Is there a lawyer in the House who will say—will the majority of the committee say—that this method is not better than to take this mass of testimony by notaries? Mr. BUTLER authorizes me to say that he would be content with the determination of this case in the way that the substitute resolution provides. It is the best way it can be determined, as members of the House should determine an election contest. Without this, we are breaking away from a fixed system and not doing the best that we can do to secure fair consideration of this election contest.

I think there is no prima facie case presented on the petition that will commend the majority resolution or that will appeal to the judgment of the lawyers of the House who know the great difficulty that surrounds the taking of this evidence in the limited time. Mr. BUTLER may well welcome this contest and the hearing of it, whether as a sitting member or as a Democrat from Missouri, from a political standpoint; but I again want to show my confidence in the members of Elections Committee No. 2 when I say that I have perfect faith in the fairness of their final determination of the case, but with an equally fair judgment I say that they can not best determine this case in the manner they have prescribed. It is due to the House, it is due to Missouri, it is due to the sitting member to sacrifice the contestant, if need be, in the interest of the integrity and dignity of these House proceedings. With this, Mr. Speaker, I will ask the gentleman on the other side to occupy such time as he may desire. I reserve the balance of my time.

Mr. OLMSTED. Mr. Speaker, I would like to ask how much time I have remaining?

The SPEAKER pro tempore (Mr. PAYNE). The gentleman has seventy-one minutes.

Mr. OLMSTED. I now yield ten minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, as a Representative here from the city of St. Louis, and as a quasi witness of the crimes against the ballot which are alleged to have been committed in the Twelfth district of Missouri, I am perhaps expected to tell the House and the country all I know about it. I am aware that my constituents and all the citizens of St. Louis and Missouri, irrespective of party affiliations, who are interested in honest elections, expect me here and now to speak out in open denunciation of Nesbit law elections at St. Louis; but I understand that this is not the question now. This is not the time to try the case; the question is whether the case shall be tried at all. In accordance with the rules of procedure, I shall therefore confine myself to the question at issue.

The gentlemen who preceded me on this side of the House have left no doubt on this question. It is perfectly plain that a vote against the pending resolution will mean an absolute denial of the right of contest in this case—in other words, a denial of justice—and it will mean more.

Mr. FEELY. Will the gentleman permit me?

Mr. BARTHOLDT. Just one minute; I would like to finish this sentence. It will mean more; it means the abandonment of the constitutional right of the House to judge of the election, returns, and qualifications of its members. Now I will listen to the gentleman.

Mr. FEELY. I would like to ask the gentleman if there is not at least a relative possibility of determining this question by the adoption of the substitute resolution presented by the gentleman from Indiana? The gentleman from Missouri stated that a vote against the resolution would mean a denial of the right of contest. I submit to him that if the resolution presented by the gentleman from Indiana is adopted, would it not at least relatively result in getting at the truth of the matter in the contest here?

Mr. BARTHOLDT. Mr. Speaker, if the gentleman had carefully listened to the statement of the distinguished chairman of this committee, he would have understood the reason why this could not be done. If we allow testimony to be taken under the resolution as it now reads, and as it is presented by the majority of the committee, testimony can be taken in five, six, seven, eight, or ten different places at the same time; consequently, it is contended, and I think justly contended, that if that can be done the case can be finished in fifteen days, the time allotted the contestant. But if we send a committee to St. Louis to investigate these alleged crimes against the ballot, testimony can only be taken in one place at one time, and therefore it would be impossible to complete the contest and have the House decide it before the final adjournment of this Congress.

Now, Mr. Speaker, I insist that the pending resolution should be passed for two reasons. First, that a simple act of justice may be done; and secondly, that the House may protect its own integrity. I do not speak as a partisan; in fact, the gentlemen on the other side of the Chamber are more interested in this case than we are, because the alleged crimes, if crimes they be, were committed in the name of the Democratic party. As far as the Republican majority is concerned, Mr. Speaker, they do not need an additional member on this floor. They do not care whether Mr. Smith or Mr. Jones is sent here to represent a district on this floor. But they are concerned, as I earnestly believe, in the question whether a man who occupies a seat on this floor has been honestly elected or not, whether the title deed which he presents here is a clean certificate of the popular will, or whether it is stained with fraud. On this proposition it seems to me our Democratic friends should occupy common ground with the Republicans, and it is the only proposition here involved.

Mr. SHACKLEFORD. If the Republicans will occupy the ground of fair investigation with sufficient time to investigate the facts, and not cast odium upon the State without allowing fair opportunity for considering and investigating the conditions, the Democrats will stand with the Republicans always for a fair investigation. But if you propose to give only three days to file an answer to a blanket charge, like you have made here, and then only a few days in which to take testimony more comprehensive this time than before—when 2,000 pages of testimony were taken—then, no Democrat—and no Republican who wants fair play—can stand on any such proposition.

Mr. BARTHOLDT. The gentleman is probably not aware that if his argument were correct, it would simply mean nonaction on the part of this House, and it would be a denial of justice.

Mr. SHACKLEFORD. It is a denial of justice to set aside constituted authority in order to carry a point. You are attempting here to-day to set aside the law, to set aside established regulations and provisions, in order that you may hurry up this case without allowing proper time to take testimony.

Mr. BARTHOLDT. Well, Mr. Speaker, I thought this matter had been settled; I thought the lawyers on this floor had agreed that it can be done and should be done.

Mr. SHACKLEFORD. Does the gentleman class himself and myself as lawyers?

Mr. BARTHOLDT. I do not class myself as a lawyer, but I think I have studied law just as long as my friend, although I do not practice it. I may not have learned as much as my friend, but I have tried very hard to learn. [Laughter.]

A VOICE. You have learned enough.

Mr. SHACKLEFORD. In this matter it would appear you do not either practice it or adhere to it.

Mr. BARTHOLDT. If my friend will permit me to continue, I will do so; I have but a few words more to say.

All honest citizens of St. Louis, irrespective of party affiliations, appeal to this House to pass upon and decide this contest at this session. Since the supreme court of Missouri, by a formal decision, has sealed up the ballot boxes for all time to come, a contest is the only means to unearth fraud, and the House of Representatives is the only authority which can order the ballot boxes to be opened. The Democratic press, particularly the St. Louis Republic, extracts from which have been read on this floor, asserts that Republican as well as Democratic election officials were guilty of fraud. If this is so, Mr. Speaker, we want to know it. In a matter of this kind we do not want to draw the line between our opponents and members of our party family. We want to see all election frauds exposed, and we want to see the guilty ones punished, no matter whether they are Democrats or Republicans. And, in conclusion, Mr. Speaker, I will say——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTHOLDT. I would like to have a minute or two more.

Mr. MILLER. I yield the gentleman five minutes longer.

Mr. BARTHOLDT. Mr. Speaker, in conclusion I will now go on record as saying, in behalf of the honor and integrity of this House, that if all the facts in this contest were known there would not be a dissenting vote on this floor upon the pending proposition.

Now, sir, since extracts have been read from a Democratic paper, which really were irrelevant so far as the immediate issue is concerned, I ask the privilege of having read an extract bearing on this case from a Republican paper, the greatest Republican newspaper of Missouri, possibly of the country—the St. Louis Globe-Democrat.

The Clerk read as follows.

CONGRESS AND THE NESBIT LAW.

No question of greater importance to this country could be brought forward than the fair election of the legislative branch of the Government. If the deliberate cheats in St. Louis who expressly contrived the Nesbit law to steal elections should be imitated in other States there would quickly be a swarm of bogus claimants trying to make the laws of the United States. The power to arrest such a flood of villainy and national disintegration is in Congress, and there rests the responsibility of vigorous, emphatic action in this weighty matter. The Constitution makes each House "the judge of the elections, returns, and qualifications of its own members." Congress became acquainted with the Nesbit law at the recent session. The sworn evidence of its many infamies was printed in three large volumes, embracing 2,214 pages. Jim Butler was unseated, and a hundredth part of the testimony, all reeking with the most defiant fraud, a fraud in which the partisan police department and the criminal class were partners, would have sufficed to send him home in disgrace. His claim to reelection rests upon the same robber law, the same corrupted agencies, the same hardened scoundrelism as before, the only difference being that the alleged plurality was shoveled up higher for effect in another contest.

Specific evidence of the grossest frauds in the Twelfth district in the election of last month will be laid before Congress without delay. Before examining this great mass of particular proof Congress should consider certain general features of the Nesbit law, any one of which would invalidate a certificate of election under its swindling and thievish operation. One of these features is the holding back of the printed registration lists in the Twelfth district until too late for verification. This scheme was practiced in the year 1900, and many pages of the printed volumes relating to the former Jim Butler contest are filled with testimony on this point. Two years ago the lists were withheld until a few hours before the polls opened. This year they were again kept back until the last moment, the excuse being that the printer was slow. The election law in force before the passage of the Nesbit law required the posting of registration lists in the precincts as fast as the names were put on the books. They were open for a long period to every investigator. But the Nesbit law concentrated the registration at one central office, cut out the continuous posting of lists, and made it practically impossible to inspect the lists at all.

Another portion of the evidence that Congress can examine at once is the reports of St. Louis grand juries. One of these juries, that of December, 1900, set forth the partnership between the partisan police department and the criminals of St. Louis. The jury traced a band of 50 or 60 repeaters from precinct to precinct and said in its report: "It is a significant fact that in one of these precincts a squad of police arrived almost simultaneously with this band of men and remained at the polling place for about half an hour, and accompanied them when they left." The jury said the frauds "must have emanated from a carefully planned purpose." The grand jury that reported last week pointed out that the Nesbit law offers no safeguard whatever against padded registration. Jim Butler could have had 15,000 plurality last month as easily as 6,000. He has in his possession two more certificates ground out by the Nesbit law fraud mill, unlimited. The whole business is a vile insult to Congress, as well as a dangerous assault on its honest membership. As Congress finds a second lesson necessary, let it act decisively.

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

Mr. MILLER. Mr. Speaker, I hope that gentlemen on the other side will now occupy some time. The chairman of our committee is not now on the floor.

Mr. ROBINSON of Indiana. We have occupied more time than the gentlemen on the other side; but I will yield five minutes to the gentleman from Pennsylvania [Mr. GREEN].

Mr. GREEN of Pennsylvania. Mr. Speaker, I do not hesitate to say that I believe this House has a right to take up and consider this election case irrespective of the provisions of the acts of Congress which usually govern the procedure in election contests. But if there ever was a case brought before this House which would justify adherence to the acts of Congress relative to this question, I believe such is the case before us to-day; and I wish to state the grounds upon which I base my belief.

First. This election contest seems to me rather a persecution than anything else. The result of the election was natural; any other would have been unexplainable and more than suspicious.

We must not forget, and it is not denied, that the man who presents this memorial—and it is a memorial signed not by people of the district, but by the single man who instituted the contest and presses it—comes from one who is not a resident of this district. Now, I admit that a district may have the right to choose a man from the outside to serve it in this body; but we all know that a man who runs under such conditions rarely receives the full, or nearly the full party vote in the district.

The preference always has been and the tide always has turned toward the man who is a resident there. The natural inference is that they were forced to seek a candidate outside because they had no one in their midst suitable and fit to fill the office; and pride gives, under such circumstances, many a vote to the home candidate which otherwise would be cast against him. But there are other reasons—one of them that the Republican primaries were so notoriously tainted with fraud that they could not agree upon a candidate. Not only were they so dishonest, but there was so much dissension and bitter antagonism among the Republican leaders and their active followers that only after a number of trials and repeated struggles candidates were chosen at all, and then they were chosen in such a manner that their nominations were discredited by their own party. What was the natural result of this? It certainly was not to increase the strength of the candidate chosen under such circumstances.

Then another fact which is notorious and which we must all hold in mind in taking up the consideration of this question—it is a fact published throughout the length and breadth of this land, of national public notoriety—the fact that previous to this election it was known to every citizen of St. Louis and of this country that there was a combination of legislative jobbers in the city of St. Louis by which legislation in its council was controlled and legislation in the State of Missouri was often controlled. Measures could only be passed by the payment of large sums of money, no matter of how trifling a character, often the mere permission to open a sewer in a street from a manufacturing plant. While there were a few Democrats in these frauds, the large majority of the jobbers were Republicans, and it is not denied that the city was controlled by the Republicans when the frauds were carried on.

The reflex of that could not be other than to give every Democratic candidate running in the city additional votes, and I have friends, as good men as ever served in this House, who suffered from these conditions so severely as to be defeated at the polls. I am satisfied they would have been elected if usual conditions had prevailed.

Mr. JOY. Will the gentleman pardon me for a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. GREEN of Pennsylvania. Certainly.

Mr. JOY. Does the gentleman know who was and is reputed to be the head of that municipal jobbery?

Mr. GREEN of Pennsylvania. I do not.

Mr. JOY. I do not propose to mention his name myself, but I wish the gentleman had not touched upon the question.

Mr. GREEN of Pennsylvania. I simply excused the nonelection of some of my friends and explained why the result in the case before us was natural.

Now, gentlemen, these are a few of many reasons which show why there is no merit, nay, even plausibility, in the contention of the man who files this memorial. Then we have another fact which is more convincing, and that is the fact that in this district the contestee had 6,293 majority out of a total vote cast of 23,395. Now, I say if there ever was a contest or a proposition of contest brought before this House in which it would be fair for this House to stand by its ordinary rules of procedure and close out this case, it is this one. The minority report, in speaking of this memorial, mildly states that in their opinion the contest is not frivolous and not without reasonable grounds. Such language damns the memorial with the faintest of faint praise. I do not believe in refusing to act.

I believe in fair and honest elections, and I believe that a man who strikes at the integrity of the ballot box strikes a blow at his country and its government. But I do say that these election contests ought to be carried on as serious affairs. As for myself, I have been on Election Committee No. 2, and I bear witness to the fact that those who are on the majority side of this House on that committee are the fairest men, and I believe they are as able lawyers as there are in the House. If I myself were interested in a contest, I do not know of any committee to which I would rather have that contest referred than to Elections Committee No. 2 as at present constructed, for I believe that there I would get a fair trial and a just verdict.

The conditions of this case are peculiar because there are not enough days between now and the time this Congress will be forced to adjourn to follow the rule laid down by the acts of assembly. Such being the case, I admit that it would be a denial of the constitutional right if this case could not be decided by the close of this Congress, but I do say that the committee should allow every latitude possible to both the contestant and the contestee, and especially the contestee, because he stands here as the attacked party, to have the evidence fairly taken and fairly presented, so that we may reach such a verdict as will be in accordance with the usual verdict reached by this committee—a fair one.

Now, the minority members do what? They present, I believe, the only practical way by which this case can be properly heard in the time at our disposal and justice done. In all my life I have never heard of such a nonsensical proposition, such an unfair proposition as that presented by the chairman and reiterated by the gentleman from St. Louis [Mr. BARTHOLDT], that the testimony could be taken fairly to these gentlemen in 6, 7, 8, 9, 10, 50,

or 100 or a thousand places at once. That is a proposition which shows on its face that the manner in which this testimony is to be taken will not be fair to the contestee or fair to the committee, so that it can arrive at a fair and righteous conclusion.

I do not not understand the contestant's case. He says he wants only fifteen days. I was for giving him more, and I do not believe he will get any case in unless it is the kind of a case that is based on glittering generalities, where the contestee will be forced to meet those glittering generalities by specific proof. If that is his game, if that is his proposition, every man must see very clearly that the man who will be injured by it will be the contestee.

Now, gentlemen, take this proposition. I believe that the laws now on the statute book say what should be the ordinary time in an ordinary case for a proper collection of evidence and a proper hearing of the case. I think this law was framed not all at once, but as an evolution from experience in many cases in this House, and I do not believe any man will deny that if there were time it would be proper to give every day of the time allowed by the statutes. We can not do that, and I claim that we should do the next best thing, which is to provide some means by which this testimony can be taken which will bring to this committee the gist of this case.

What is the usual way? When I was in the senate of Pennsylvania it became my fortune or misfortune to be obliged to sit on two election contests. In one case we were obliged to examine 8,000 witnesses and in the other we were obliged to examine some 4,000 witnesses. If we had gone over the testimony in the way that it is usually taken it would have taken us about three times as long to arrive at a conclusion as it did; but the committee went to the place to save the expense of bringing the witnesses to the capital, and they took this evidence in a very reasonable amount of time.

The contestant can not be hurt by the proposition of the minority here. The majority of the subcommittee will be from the majority side of this house, and if there is any attempt to string out the testimony, if there is any attempt to bring in irrelevant testimony, it can be promptly ruled out, and the testimony which will bear upon the case and nothing but that testimony will be taken, and the shortest practical day fixed to close. In view of the peculiar conditions I feel satisfied that the proposition in the substitute is fair to the contestant as well as to the contestee, as far as it can be made so. I do not believe anything short of the full time would be really fair to the contestee, but I admit that he can not have this. Therefore we ought to be as fair as possible to him. I believe the proposition of the substitute is the fairest one that can be made. I do not claim that the committee have undertaken to throttle this contestee by their action; but I do say that I think they should in all fairness agree to the proposition presented here by the minority as being the only fair proposition by which this House can be put into possession of the material and important facts in this case.

[Here the hammer fell.]

Mr. ROBINSON of Indiana. I ask the gentleman from Pennsylvania [Mr. OLMSTED] to use some time. We have consumed all but about thirty minutes.

Mr. OLMSTED. Mr. Speaker, I yield ten minutes to the gentleman from Massachusetts [Mr. POWERS].

Mr. POWERS of Massachusetts. Mr. Speaker, so far there have been two objections urged to the adoption of this resolution: First, that as long ago as 1851 Congress, by the enactment of a statute, waived its constitutional rights to consider a question which involved the question of the judging of the election, returns, and qualifications of its members.

The other objection is that the forty days allowed for taking evidence will not be sufficient. I understand from the statement made by the gentleman from Pennsylvania who has just taken his seat [Mr. GREEN] that the first objection is already waived, and it is conceded that this House has to-day its constitutional right to pass this resolution. But it is claimed by my friend from Pennsylvania that forty days are not sufficient in which to take the testimony. How does he know that forty days are not sufficient time? If there has been no fraud, then forty days are more than sufficient. If there has been as much fraud as is claimed by the contestant, then certainly forty days will be sufficient.

But you will bear in mind, Mr. Speaker, that after this testimony is in it comes back to this committee from which this resolution originated, and it will then be for the committee to say whether there has been sufficient testimony taken by which the committee can reach an intelligent determination and conclusion. And it also remains for the House, after the report of the committee, to say whether the evidence has been sufficiently well taken and enough testimony has been taken to pass intelligently upon this case.

Now, for one I desire that this case shall be considered in a judicial manner. I have no desire to unseat the contestee here simply because he is not of the same political faith that I am. Neither have I any desire to seat the contestant because he entertains the same political views upon some subjects that I do. And I think it is conceded here that this committee from which this resolution originates is a committee that always has considered questions from a judicial point of view.

Now, one thing is perfectly evident, that forty days is a long time in which to take testimony, and a particularly long time if the parties can take testimony before more than one magistrate.

It must be recollected that it is for the committee to say, when that testimony is completed, whether sufficient testimony has been taken by which this House can fairly judge the question of the election of the sitting member. The amendment offered by my friend from Indiana is one that contemplates a special subcommittee of five, taken from the election committee to which this case has been referred: that that committee shall go to St. Louis and take testimony. I think the gentleman who represents the district in St. Louis has made answer to that amendment by showing that that would be entirely futile. More than that, I think the members of this committee would somewhat distrust themselves in attempting to take that trip to St. Louis, a most generous and hospitable city, to be entertained by the friends of both the contestant and the contestee. I doubt very much if they would ever accomplish their work; and I sometimes think that my friend from Indiana, when he proposed that amendment that the committee should travel to St. Louis and be entertained by the generous citizens of St. Louis, knew perfectly well that they never would complete the work.

However, this is not a case at this time to be discussed on its merits. It is simply a question whether this House shall pass upon the case. With this memorial before us, with all the charges of fraud made in that memorial and supported by all the affidavits annexed thereto, it is the duty, in my judgment, of this House to pass upon this election case. I believe we can pass upon it in a way that will be judicial in its character and in a manner, I trust, that will be satisfactory to both sides of this House. [Applause.]

Mr. MANN. Mr. Speaker, it seems to me to be a very remarkable proposition that has been advanced by the gentlemen on the other side of the aisle, that this House has not the power to enact or pass a resolution of this sort because of its coming in conflict with the statute. Why, Mr. Speaker, it has been the invariable practice of the Committees on Elections of the House to disregard the strict provisions of the statute in reference to the time of taking testimony in contested-election cases, and in my judgment more than one gentleman has been seated or remained in a seat on the other side of the aisle because the Committee on Elections has disregarded the technicality of the length of time prescribed by the statute. The purpose of the statute in fixing the time for taking testimony was to permit testimony to be taken before the session of Congress commenced. The election is held in November in one year, the session of Congress begins on the first Monday of the December of the following year, thirteen months after its election. The statute prescribes the method by which the testimony can be taken during that period when Congress itself can make no prescription, because not in session.

Now, Mr. Speaker, to say that the statute binds the House of Representatives is to place the provision of the statute against the Constitution. Here is a proposition which merely permits the facts to be presented to the House. In no other way can the House determine the contest or the right of the gentleman from Missouri to a seat on the floor. In no other way can this House intelligently pass upon the question. The Committee on Elections might take this memorial and bring in a report to unseat the sitting member without having a single particle of evidence before the committee. It has power to make a report of that kind—the House has the right to unseat the gentleman from Missouri without listening to any evidence at all—but I say that would be grossly unfair, and no person would be justified in making a report of that kind; and no House would be justified in adopting tactics of that sort, unless through the opposition of the gentlemen themselves it became impossible to take testimony.

Now, to those gentlemen on that side who say that this side does not want the facts in a contested-election case presented, I ask them, Do they wish to claim that one of their members can be seated by fraud in this House and maintain his seat without any chance to turn him out on account of fraud? Do they wish to take the position that if a man happens to be elected to the House, and his title is questioned, that there shall be no investigation of the facts in the case? I am surprised, astonished, and shocked that gentlemen on the other side of the aisle should object to the taking of testimony in a case where fraud is charged against one of their members. They ought to be the first ones—the gentlemen from Missouri, all of them, ought to be in favor of a fair resolution for taking testimony.

Mr. VANDIVER. Will the gentleman yield to me for a question?

Mr. MANN. Certainly.

Mr. VANDIVER. I will ask the gentleman to give us the name of anyone who has objected to the taking of testimony. The gentleman has so stated, and I would be glad if he will state in his speech who it was.

Mr. MANN. If the gentleman will permit me, the distinguished leader whom he properly follows in this House made the claim that this House had no power to pass a resolution of this sort.

Mr. VANDIVER. Is that objecting to taking testimony?

Mr. MANN. That is objecting to taking testimony, because the gentleman knows as well as any other that there is no way under the law to complete the taking of the testimony until the power of this House has passed away by its dissolution. Perhaps the gentleman will be satisfied if testimony can be taken too late to be considered. Perhaps the gentleman would like to have testimony taken after the 4th of March, after this Congress has passed into history. I would prefer to have testimony taken which can be considered by the House. [Applause.]

[Here the hammer fell.]

Mr. OLMSTED. I now yield five minutes to the genttleman from Missouri [Mr. JOY].

Mr. JOY. Mr. Speaker, I do not propose to go into the questions involved in this case, except so far as to show the practicability of taking this testimony within the time provided for in the resolution. In the outset it is well to say that if the time is insufficient for making out a case by the contestant there will be no case here, so neither the Democrats nor the Republicans will have to worry about that.

The district in which this contest arises is a small, compact district in the center of the city of St. Louis, pretty nearly square, and 2½ miles would more than cover the whole extent of the district itself. It is not over 2½ miles long and not 2½ miles wide at its widest place. Any person can go from the center of the city, where the notaries and lawyers have their offices, the business part, to the farthest point in the district in twenty minutes by a street car. There is no difficulty in getting a witness to the place for taking testimony. Anyone can be brought in, if found in his place of business or at his home, within half an hour.

Now, as I have heard to-day (I have not read this memorial), and I understand that less than one-half of the precincts are challenged for irregularity in the contest, and inasmuch as only about 27,000 votes were cast in the whole district, I will state that one notary public in ten days can open and count every ballot of those charged to have been irregularly cast in all the precincts where fraud is alleged to have occurred.

I say that in earnestness, because in a former contest in the Fifty-third Congress, in which my own seat was contested, the contestant opened and counted every ballot in every precinct in the whole district, and there were within 200 of 30,000 ballots in the boxes. With one notary public taking testimony in one place, not only did he count every ballot cast—inspected every ballot—but took the testimony within his forty days and ten days additional of over 1,500 witnesses. Now, with two or three notaries, or half a dozen, which is thoroughly within the law, thoroughly within the recognized practice of these contests, there is no question in the world but that the testimony sought to be elicited can be taken, if the witnesses can be found within the jurisdiction, without any hardship upon anybody.

As to the merits of this controversy, I know nothing of my personal knowledge and have no interest except as a member of this Congress. My only interest goes to the question whether or not the Congress shall use what power it has to investigate an alleged fraud within one of the districts represented on the floor of this House.

I can not refrain, while disclaiming any intention to go into the facts of the case, from having knowledge of one fact, and only one. It is rather amusing to me, because it is brought pretty close home. Within the district represented by my colleague [Mr. Butler] there is a number, 1507 Chestnut street, occupied by a cheap boarding house, as I am told. It was formerly the residence of ex-Governor Charles P. Johnson, but is now inhabited by colored people altogether, and is a 25-cent lodging place. At that number, at that house, according to the registration published, is the name of Charles F. Joy, registered in full. I am informed that on the tally sheet that name—my name—was voted at that number on the 4th day of November last. That is the simple fact. That little fraud, if it is a fraud, can be shown in five minutes before a notary public, and any one of the other thousands can be shown as quickly by testimony as available as in this case.

Now, as I say, 30,000 votes were counted by opening the ballot boxes in 1892 by one notary, and 1,500 witnesses were examined before the same notary. If the House fails to get the testimony before it which will justify a consideration by the committee or by the House of this contest, no harm can be done to anyone, and the little expense and trouble to which the contestant and contestee will be put will be justified by the act of the Congress itself in allowing itself to purge its own membership and investigate any fraud that may have been practiced in the election of any of its members.

Now, Mr. Speaker, I trust this resolution will pass. It will practically be absolutely impossible for a committee of this House to give the necessary time; and if they had the time, it would be practically impossible for them to reach the facts with reference to the conditions in the Twelfth district of Missouri. The district, while compact, is composed of a shifting population. If the frauds alleged to have been committed, the registration alleged to have been fraudulently had, did really occur, a committee would never find the thousands who are supposed to have illegally registered. In no way could the facts of that matter be reached except by personal investigation, and then testimony taken before notaries public to any number that may be necessary. Therefore I say, if we as a body, if the House of Representatives of the Fifty-seventh Congress, intends to look into this matter at all, let us look into it in a way that is practicable and reasonable and fair to all parties concerned.

Mr. OLMSTED. I will ask the gentleman from Indiana [Mr. ROBINSON] now to consume the balance of his time.

Mr. ROBINSON of Indiana. I yield seven or eight minutes to the gentleman from Illinois [Mr. FEELY].

Mr. FEELY. Mr. Speaker, I am an optimist. Within the short term of my life I have looked to the millennium. I have looked to the day when the decalogue will be absolete on account of its uselessness. I have looked to the day when the criminal code will be repealed on account of its uselessness, and until a few moments ago I had always looked to the possibility of hearing my distinguished friend from Illinois [Mr. MANN] discuss a political question with judicial tranquillity.

I had not expected a blanket indictment against the Democratic party on account of the raising of a question of consideration which mainly dealt with a method of procedure. I am broad enough to believe, and my duty and my conscience direct me to believe, that this House at this short session of the Fifty-seventh Congress should determine the contested-election case of Wagoner *v.* Butler, if a prima facie case is presented.

For my part, I disclaim standing technically upon the statute of 1851, but I am not unmindful of the fact that this House and the Senate have a right to change the act of 1851 in a regular way, and the leader of the minority needs no defense in making the point of order which he did this morning. He was pursuing the regular parliamentary method and asking the House to stand by its established rules, so many times eulogized by members on the other side of the House.

It is a great privilege which I enjoy to occupy a seat on the Committee on Elections No. 2. During the period of my service on that committee I have seen all questions proceeded with in a spirit of judicial fairness, with a desire to give the widest latitude of procedure—always aiming at the substance of rectitude.

In this case I have no complaint to make against the majority of that committee, because I believe that, differing from the minority on the question of method, they are going about this question to determine it in a judicial manner. I believe the authorities warrant a determination of this question; and the broadest authority that is submitted to us is that of McCrary on Elections, in which various reports of committees of this House are quoted. That authority states that wherever, in an extraordinary case, a prima facie case is made out the House should depart from the statutory proceeding. The question that remains to be decided here to-day is, first, whether we have a prima facie case; and second, whether we ought to adopt the suggestion contained in the resolution of the gentleman from Indiana [Mr. ROBINSON], to send a committee to the scene of this election, instead of leaving the matter to the usual and often haphazard method of taking testimony simultaneously at different parts of a city or district.

The attention of the House is first called to this case by a memorial presented upon the request of the contestant. I will not go over the various grounds submitted here in support of that memorial, because it is not contended as to many of these grounds that they were relied upon seriously. The gentleman from Indiana went over sufficient of these charges to demonstrate that at least in the form submitted to us they are frivolous. My attention was particularly called to one frivolous charge contained in the notice of contest and also in the memorial to the House—that is, the charge of conspiracy. I quote from the grounds of contest set up in the notice, where the contestant says:

10. That, at some time prior to the registration of voters held for the purpose of said election, a number of persons, whose names are to the contestant unknown, entered into a combination and conspiracy, the purpose of which was to cause to be placed upon the registration lists of voters in the said city of St. Louis, in the said district, as legal voters the names of many unqualified persons.

I will not read further. It is sufficient to say that this whole

charge is of the blankest character, analogous to the declaration filed by a young lawyer who expected to recover about $400, but who laid the damages at $347,599. I say that when this House is called upon to determine a contest in such a short time and to depart from the usual method of procedure in so determining it, there ought to be the most unstinted candor in the memorial sent up to the House of Representatives.

There ought to be some other memorial besides that of the contestant himself. There ought at least to be a petition of a respectable number of voters in the district; but, waiving that, the statement is made by the gentleman from Missouri [Mr. BARTHOLDT], in answer to a question, that it is much easier to take the testimony at different places, before notaries public or other commissioners, than it would be before a committee of this House. The lawyers of this House know, and the business men of this House are sure, that when you want to expedite matters, when you want to determine judicially the truth of a stated fact, you can do it far better before men who have the training to compel the adduction of testimony according to the established rules of evidence and procedure than you can before a justice of the peace or a notary public.

I have had a little experience in this House, going over tomes of testimony for the purpose of proving, perhaps, that some Senegambian handed out a few sheckels of denomination 25 or 50 cents for a vote on election day. I believe that a committee carrying with it the power and the prestige of this House going to the city of St. Louis with the intention to insert a probe into the alleged rotten conditions of that, perhaps, unfortunate city, could find more of the truth and arrive better at an issue in this contest than we can by delegating practically to the contestant the power of going before a notary public and bringing evidence to support all these allegations within a period of fifteen days.

Eager to get before the House, grasping at the opportunity to accept fifteen days, the contestant may possibly be under at least the shade of the inference of a lack of bona fides in this case. If we are to determine this case honestly, as we will upon our oaths when the report of this committee is made, we ought to have the broadest latitude in arriving at these facts, and this House, by the adoption to-day of the majority resolution, practically says to notaries public, as suggested by the gentleman from Missouri, "Issue your subpœnas; hold your court in any barn, anywhere; compel the contestee to follow you, in order that he may cross-examine your witnesses, and to determine the possibility of the impeachment of those witnesses."

Say to the Democratic side of this House, if you can, that your proposed method of taking testimony all over the district, all over the city of St. Louis, compelling the contestee to chase around after these notaries public, and in all this haste to prepare to follow his case, is as fair a one as that of a committee of this House, sitting in its dignity, accepting no testimony but that which is relevant to prove the issues in this case. The minority of this House, weighs its honor as heavily and as fairly as the other side. It desires not to have its honor tarnished by an irregular certificate of election. It desires fairness.

If there is a man is this House who is not here by the law of the land and the desires of the legal voters of his district, he ought to get out; but do not, in the haste to respond to a partisan memorial, close out the possibility of getting the fullest and fairest investigation here. Place it upon your own shoulders and anticipate your own serenity, my friends, if you were called upon to hie yourselves around after various notaries public, to find them in order that you may cross-examine the witnesses presented and to discover the antecedents of those witnesses and try your case in a judicial manner.

I think, Mr. Speaker, that I have offered, perhaps, the main suggestions which I intended to make here this morning. I recognize the fact that going into a long discussion of things not material here would do no good to the House, would do no good to the contestee, would do no good to the dignity of the House or to anyone considering the question; but I believe, in the first instance, in the integrity of the gentleman from Indiana [Mr. ROBINSON] in submitting this resolution for a committee of investigation. I believe also that if the majority of this House in its judgment or in its power sees fit to reject that resolution the very widest latitude should be offered to the contestant, whether he likes it or not; and here and now, going into the realm of anticipation, I would say to the members of this House that they should mark down on the tablets of their brains this statement, that the contestant came before the committee—and that is important to the House—and stated that fifteen days was all that he required.

Let us not, when we get the testimony as provided by the resolution, if the majority resolution passes, on February 1 forget that more days remained for the taking of testimony, and let not the inference be made at that time that if more time could be had greater proof of frauds or irregularity would have been obtained. I say, Mr. Speaker, that in extraordinary cases the House has the right to amend the rules of procedure of the act of 1851, but it ought to be done only on extraordinary occasions, such an occasion where at least a respectable and creditable memorial is presented to this House. I hope that the majority of this House, having it in their power judicially to determine, without regard to partisanship or personality, the issues in this case, will determine them in such a way as to redound to their honor, glory, and credit. [Applause on the Democratic side.]

Mr. ROBINSON of Indiana. I yield fifteen minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, the first question is as to the power of Congress to take the action suggested. If that question should be decided in favor of the exercise of that power, the next question would be as to the propriety of exercising it. If it were decided that a proper case has been presented for its exercise, the third proposition would be in regard to the manner of exercising it.

My time being short, I shall direct the remarks which I shall make to the third of these propositions. I shall take no time to discuss whether the House, in a short session, possesses the constitutional power to proceed in ways not marked out in the statute to ascertain who is elected to a seat here. If the House does decide that it possesses this power, if it decides to exercise it, then it becomes practical and important to determine aright the method of exercising it, which certainly ought to be to arrive as nearly as may be possible under all the circumstances at an honest and correct conclusion in regard to the merits of the case.

That suggests a consideration of the plan proposed by the majority and that offered by the minority of the committee, the question whether testimony shall be taken in the form of depositions, or whether a subcommittee of the Committee on Elections shall be empowered to go to St. Louis, examine witnesses, ascertain the facts in the case as far as possible, and report the facts and its conclusions to the House for such decision as the House may see proper to make. It seems to me, Mr. Speaker, considering the limited time in which the investigation is to be made, that it is most likely that by sending a committee to St. Louis, clothed with power to make a full examination into the matters in controversy, the real facts can be ascertained and a correct conclusion arrived at.

Something has been suggested in the discussion about a disposition on the part of the Representatives from the State of Missouri to stifle investigation and shrink from a fair disclosure of facts. Gentlemen who take that view of the matter are entirely misinformed in regard to the facts, or they are indifferent in the conclusions which they draw and the suggestions which they make as to what the facts are. I take it that by the record of the past and the present, as well as by the conduct and bearing of the Representatives from Missouri on this side at this time, and in all times, it may be fairly assumed and reasonably concluded that we are about as anxious and about as willing as the average of the membership here that all questions of this kind be fairly investigated and honestly determined. That is simple justice to our membership in this House from the State of Missouri.

On the other hand, we do not belong to the class who take occasion, in season and out of season, to abuse the State and the institutions of the State. We do not belong to the band of busybodies, a large part of whose stock in trade consists in abuse and denunciation, in season and out of season, with cause or without cause, of those among whom they dwell, and of the laws of the great State from which we all hail.

It will be found, I think, Mr. Speaker, if a fair and impartial committee visit the city of St. Louis and fairly and impartially investigate this matter, that the proud State of Missouri has provided wise, broad, just laws for the conduct of elections; that in the main the officials appointed to administer those laws are men of reputation and standing in their several communities, St. Louis being no exception; and that, upon the whole, and upon the average, elections have been conducted in that State and in that city with as much regard for honesty and law and fairness and with as great a desire to get at the will of the electors as elsewhere in the Union. Much in this case, and all outside of it, injected through the perfunctory exertions of some gentlemen who desire to get in outside matter reflecting upon the people of the State and its institutions and laws, will be found, upon a fair investigation, to have very little, if any, foundation.

The election board of the city of St. Louis consists of three members appointed by the governor of the State. Two are Democrats and one is a Republican. I take it that no man will find upon investigation, and that no respectable man will take the responsibility of asserting, either upon investigation or without it, that any of these men are lacking in character or qualifications. No man who desires to be honest and fair will raise any question as to the party affiliation and party devotion of any of these men. The Republican member of that commission is an honorable and upright man of the city, a man who stands well, and deservedly so, in the councils of his party.

That the millennium has yet reached all the wards of St. Louis, not yet having arrived in other parts of the Union or of the world, it is not necessary to proclaim. But, upon the whole, that elections are conducted there as fairly—that the last one was conducted as fairly—as elections generally are conducted in great cities is not an extravagant assertion to make, nor a risky thing to predict, as something to be verified by the investigation of this committee, if sent to St. Louis.

One of the gentlemen voted for did not live in the district in which he stood as a candidate. However it may be in other parts of the Union, out in Missouri there is among the people a sentiment—or prejudice, if you please—that each district ought to be able somehow or other to find within its own borders some one for Representative in Congress. And there is, if you choose to call it, a prejudice, perhaps more correctly a sentiment, against electing in a particular district a gentleman who has kindly offered his services from some other adjacent, adjoining, or neighboring district.

The other candidate in the case lived in the district, was born in the district, was reared in the district, and in fact and in merit has a strong hold upon the voters of the district. I was told only a short time ago of a little instance indicating upon what a foundation and basis rests the strength this gentleman possesses among the plain people of his district.

Some time ago, some years ago, I believe, a man from a neighboring State came to St. Louis and was employed in the service of a street or other railway company. In a short time he sickened and soon died, in abject poverty. He left a widow and two little children desperately poor. Some of the neighbors started a subscription to raise money if possible to bury the dead husband and father so as to keep him from going to the potters' field. After a few dollars had been contributed it appears that a neighbor having the subscription paper in charge met an acquaintance of his to whom he presented the paper and related the circumstances in the case.

This gentleman furnished the money to procure the coffin and a decent suit of clothes for the corpse, hired a hearse to convey the casket to the railroad station, purchased a ticket for the corpse and tickets for the family to carry them to a distant State—the old home. For the widow and children he had a carriage ordered to convey them to the station, and he footed the whole bill, amounting to $150, for utter strangers—"Strangers in a strange land"—for the decent burial of a dead man whom he never knew in life, for the relief of a widow and orphans who never could help him. Thus were paid the expenses of conveying the humble dead, the mourning wife and the weeping children who accompanied their dead, to a distant State.

Not only that, but he gave the stricken ones money enough and to spare for their expenses during the trip, after supplying them with transportation. It is no wonder to me, Mr. Speaker, however it may seem to other gentlemen, that in a district made up very largely of laboring people, of poor people, the overwhelming majority of the qualified electors, exercising their suffrage, according to their own devices, according to their own free, unpurchased will, record their decision in favor of a man who can do such an act of charity, without the possibility or hope of reward or recognition. For this, I am told, is only one of his many such acts of charity and broad humanity.

I would like to see a subcommittee sent to the city of St. Louis to investigate this whole case fairly, and I expect that it would come back here then without any slander in its report or upon the tongues of any of its members for the good people of Missouri, without any low abuse of the Missouri laws, without any libels on the legislation of that grand State, and with the facts and conclusions upon which the man really elected—by a majority of the honest, legal voters of the district—might be permitted to retain his seat in this House. [Loud applause on the Democratic side.]

Mr. OLMSTED. Mr. Speaker, how much time have I remaining?

The SPEAKER. Thirty-seven minutes.

Mr. OLMSTED. Has the gentleman from Indiana consumed his time?

The SPEAKER. He has two minutes remaining.

Mr. OLMSTED (to Mr. ROBINSON of Indiana). Do you care to use it?

Mr. ROBINSON of Indiana. I waive the two minutes.

Mr. OLMSTED. I yield fifteen minutes to the gentleman from Kansas.

Mr. MILLER. Mr. Speaker, I have no desire at this time to take up the time of the House in discussing the question as to whether or not the laws of the State of Missouri have been violated by any portion of her people. I am not here for the purpose of casting any reflections upon the people of that great Commonwealth nor upon the people of the city of St. Louis. There is not any question at this time before the House of Representatives that would justify any member of this body in making an attack upon the people of St. Louis.

I have been somewhat surprised, and, I will admit, somewhat astonished at the remarks to which I have just listened, made by the distinguished gentleman from Missouri [Mr. DE ARMOND]. In my judgment this is no time to offer any funeral oration upon anyone who desires to have this body pass upon his right to a seat here. The contestee may be very charitable indeed, and may in the course of a lifetime have rendered aid to some family that was deserving of charity at his hands; but I am reminded at this hour that the record of this House shows that the gentleman has drawn from the Treasury of the United States in the neighborhood of about $10,000 that this House has decided by its vote he was not entitled to, and that amount of money might have been generously distributed to the people of St. Louis that needed charity at the hands of the contestee, who is now asking that he may be permitted to retain his seat in this House.

I want to say, Mr. Speaker, that the only question at this time to be determined by the House is whether or not the Committee on Elections No. 2 has granted sufficient time to investigate and determine whether the contestant in this case, Mr. Wagoner, or the contestee, Mr. Butler, or either of them, have been legally elected by the people of their district. The rule that has been adopted, and has been followed for many years, except in extraordinary cases, the Committee on Elections deemed not at this time proper for determining this particular case, and for the reason that, if that rule was to be applied, this Congress would have passed away and no determination made as to whether the gentleman who now occupies the seat from the St. Louis district is entitled to it or not. The fact is admitted on the other side of the Chamber that this determination can not be had under the ordinary rules of the House. Every speaker that has spoken virtually has admitted that fact.

Now, then, they ask us to adopt a different method from that suggested by the majority of the Committee on Elections No. 2. They say if you send a committee from this House to the city of St. Louis, that that committee, clothed with the power that it will be clothed with, can easily determine and report to this House, so that all questions can be determined before adjournment of this Congress. I want to call the attention of gentlemen on the other side of the Chamber to the fact that they know as well as we do that if a committee from this House was to go to St. Louis for the purpose of taking testimony in this case that the hospitality of the people of St. Louis tendered, as it would be to a committee of this kind, that that committee would be wined and dined during the most of the time from now until the close of this session of Congress, and they would not get back here to make a report until Congress had adjourned. [Laughter.] I want to say that I know something about the hospitality of the people in St. Louis. I know that our Democratic friends in that great city would not allow this committee to devote more time than was absolutely necessary to determine this case.

Now, I want to say, as far as the criminal laws of Missouri are concerned and the people who have violated them, I am willing to turn them over to the tender mercies of one of the ablest attorneys that this country has ever produced, the present efficient prosecuting attorney of St. Louis, who has shown the people of America that he has had the courage, under the most trying and unfavorable circumstances, to perform the duties of his high office, and I believe the members, upon this side of the Chamber at least, are willing to leave this question to the courts of the State of Missouri and the distinguished prosecuting officer, Mr. Folk, who has been so successful in securing the conviction of the men guilty of the open and notorious violation of the laws of that State. [Applause.]

I want to call the attention of the House to the argument of the gentleman from Indiana [Mr. ROBINSON], who says that if a committee of this kind could be appointed and sent out there, there can be no question but that at some time in the future they will make a report to this House, after they have fully investigated and examined all the questions growing out of the contested case. I want to say that they will report at some time, I have no doubt, in the future, but not in time to permit this House to vote on the question as to whether the people of that great district shall be represented by a man who is their choice or whether it shall be represented by a gentleman that they claim has no right to a seat in this body.

Mr. ROBINSON of Indiana. I would suggest to the gentleman that the resolution provides that the report shall be made in time for the House to determine the question.

Mr. MILLER. I understand that the resolution does make that provision; but if that committee has not determined that they can in that time make such a report as in their judgment ought to be made to this House I imagine that they will be back here again asking for further time, that they may go on and on until too late for action before the close of this session, and that seems to be

the desire of those opposed to the adoption of the report of your committee.

The gentleman from Indiana says that in extraordinary cases this kind of a rule might be adopted and ought to be. Now, I call the attention of the gentleman to the fact that if there was ever an extraordinary case presented to the American Congress this is such a case. Who is the contestee here? He is the distinguished gentleman who on the first day of the meeting of the Fifty-seventh Congress stood up in this House and took the oath as a member of this body, and who, after he had occupied a seat here, enjoying the rights and privileges of a member for a year and three months, was determined by the House of Representatives to be not entitled to a seat here. What would make an extraordinary case, gentlemen of the House of Representatives, in which we might adopt a different rule from that laid down in the statute of 1851, if this is not such a case?

I want to suggest to the gentlemen on this side of the Chamber that the only question at this hour for members of the House to determine is whether or not we will permit the contestee to retain a seat in this body until the close of this session without, in a legal and orderly way, inquiring into his right to such seat, and this, too, in view of the very serious charges alleged by contestant in his notice of contest.

I repeat that this is a most extraordinary case; and it justifies an extraordinary remedy, or at least one different from the ordinary rule in contest cases, because under the regular rule justice could not be secured in this case.

I want to say to members, especially those on this side of the House, that if you adopt the proposition presented here by the minority of the Committee on Elections No. 2 you will adjourn this body at the end of the present session without any report of any kind in reference to this contest; while if you adopt the majority report you will at the beginning of February, or before the middle of that month, have a report—a report which in my judgment will justify the American Congress in determining whether either of these gentlemen is entitled to a seat in this body—whether there was a legal election in that district.

I do not think any person here cares very much about the question of the nomination of these two gentlemen. That is a question to be determined by the evidence here, it is true; but if what these gentlemen say is true—that this contestant is without claim to the seat by reason of the fact that he was never regularly nominated—I assume that the burden of proof is upon him to show that he was legally nominated as well as legally elected. He has said to the Committee on Elections that he can do this within fifteen days.

After having heard from the lips of the distinguished gentleman from Indiana [Mr. ROBINSON] the splendid tribute to the political virtue possessed by the gentlemen composing Election Committee No. 2, I only wish to call your attention to the fact that that committee was so fair to the contestee that they changed the rule of the House so as to give him five days more than given to contestant to present his testimony in chief in this case.

There is no politics in this case, and there should be none in the discussion of it. The Republican members of the Committee on Elections desire that the case shall be heard at the first moment that it is possible to hear it. They have said that in their judgment fifteen days will be sufficient time for the contestant to present his case, he himself having said that he can do it in that time, and after that it is proposed to give twenty to the contestee to present his case, with five days additional for the presentation of evidence in rebuttal, and then the whole case can be presented to the full committee and to the judgment of this House. Gentlemen, if you want at this session to determine this question under the extraordinary circumstances prevailing in this particular case, I ask at your hands the adoption of the report of the Committee on Elections No. 2. [Applause on the Republican side.]

Mr. OLMSTED. Mr. Speaker, but little remains to be said in this case. The ground upon which the minority at first proposed to contest this resolution, as indicated by the gentleman from Tennessee [Mr. RICHARDSON], appears to have been wholly abandoned—I mean the contention that the House can not itself, by resolution, disregard the statute of 1851. The substitute resolution offered by the gentleman from Indiana [Mr. ROBINSON] abandons that principle.

Our resolution provides a certain time in which testimony shall be taken. My friend from Indiana contends that the testimony could not be taken in that time and then proposes a remedy by which not nearly as much testimony could be taken in the same time as under our plan.

Now, what is the proposition here? It is that a subcommittee of five, upon which presumably both political parties shall be represented, shall go to St. Louis and take this testimony. What would be the result? Banqueting, revelry, enjoyment of the proverbial hospitality of St. Louis, and very little attention to business. When a committee or subcommittee goes out to take testimony, somebody makes an offer to submit certain evidence. One member of the committee thinks it relevant, another thinks it is not. Half the time of the committee is taken up in debating such questions and little progress is made, particularly where, as in this case, there would be great inducement upon one side to consume all the time possible. Then, again, no committee sent out by this House will sit continuously, and of course it could not sit in more than one place at the same time.

What does the act of 1851 provide? Why, Mr. Speaker, it provides that testimony may be taken in two or more places at the same time. That is the provision of the law. That is the provision which the substitute resolution is attempting to evade or escape.

"Persecution" this is called. My friend from Pennsylvania and my friend from Indiana claim that it is an outrage to take testimony in different places at the same time—a great wrong to the contestee. Well, the contestee has the same privilege. I call the attention of those gentlemen to the fact that this has been the custom for more than fifty years. In every election case that comes here testimony has been taken at different places at the same time. It is always done. That is not provided in our resolution. It is provided in the act of 1851. We do not touch it.

Now, just a few words more. My friend from Pennsylvania [Mr. GREEN] and the gentleman from Illinois [Mr. FEELY], members of the committee, and also the gentleman from Missouri [Mr. DE ARMOND], have attempted to show that a prima facie case has not been made out by the contestant—that he has not shown that this is a contest in good faith. My learned and distinguished friend from Missouri [Mr. DE ARMOND] stated some reasons why Mr. Butler must have been elected, and the contest should therefore be treated as frivolous. He mentioned his great popularity. Among other things he had on one occasion helped a poor family to bury its dead. That was praiseworthy, but is that a reason why several hundred dead men should be voted in his support, as charged in this contest? [Laughter.] Then his great popularity because of his connection with the street railway. Is that a reason why, as shown by the sworn statements of third persons, 110 persons were registered and voted as living at 3865 Boulevard avenue, which this affidavit shows is a mule stable belonging to a relative of the sitting member? Is his great popularity evidenced by the fact shown in this sworn statement that in one precinct he received 330 votes, although there were only 169 persons entitled to vote at all?

That is a very forcible and valuable method of showing popularity, if such methods are not to be investigated by this House. But that kind of popularity hardly excuses an investigation. The contestee [Mr. Butler] has already during this Congress drawn his salary and served as a member of this House one year and three months without any legal authority, as was decided by the House on the 28th of June last. Our friends on the other side ask that he be permitted to sit three months longer. That is the substance of their resolution, because to adopt their substitute means that this contest can not be heard. I am authorized by the committee to accept the amendment of the gentleman from Indiana extending the time for five days for filing the answer. But the substitute providing a subcommittee to go to St. Louis is so manifestly intended to prevent the decision of this case by this House that we oppose it as strongly as possible.

Now, Mr. Speaker, without consuming further time of the House, I demand the previous question upon the resolution and substitute and all other amendments to its final passage.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Pennsylvania.

The question was taken, and the previous question ordered.

The SPEAKER pro tempore. The first question is on the amendment offered by the gentleman from Indiana, which the Clerk will report.

The Clerk again reported the amendment.

Mr. OLMSTED. To that amendment. Mr. Speaker, the committee authorizes me to state that we agree.

The question was taken, and the amendment agreed to.

The SPEAKER pro tempore. The question now is on the adoption of the substitute.

The question was taken; and on a division (demanded by Mr. ROBINSON of Indiana) there were—ayes 90, noes 99.

Mr. ROBINSON of Indiana. Mr. Speaker, I demand tellers.

Tellers were ordered.

The SPEAKER pro tempore. The gentleman from Pennsylvania, Mr. OLMSTED, and the gentleman from Indiana, Mr. ROBINSON, will act as tellers.

The House again divided; and the tellers reported—ayes 106, noes 126.

So the substitute was lost.

The SPEAKER pro tempore. The question now is on the original resolution.

Mr. OLMSTED. Upon that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 118, answered "present" 10, not voting 71; as follows:

YEAS—155.

Acheson,	Dick,	Joy,	Pearre,
Adams,	Douglas,	Ketcham,	Perkins,
Allen, Me.	Dovener,	Knapp,	Powers, Me.
Aplin,	Draper,	Kyle,	Powers, Mass.
Babcock,	Dwight,	Lacey,	Prince,
Ball, Del.	Emerson,	Landis,	Reeder,
Bartholdt,	Esch,	Lawrence,	Reeves,
Bates,	Evans,	Lessler,	Roberts,
Beidler,	Fletcher,	Lewis, Pa.	Schirm,
Bishop,	Foss,	Littauer,	Scott,
Blackburn,	Foster, Vt.	Littlefield,	Shattuc,
Blakeney,	Gaines, W. Va.	Loud,	Shelder,
Boreing,	Gardner, Mass.	Loudenslager,	Sibley,
Bowersock,	Gardner, Mich.	Lovering,	Skiles,
Brandegee,	Gardner, N. J.	McCall,	Smith, Ill.
Brown,	Gibson,	McCleary,	Smith, Iowa
Brownlow,	Gill,	McLachlan,	Smith, Wm. Alden
Bull,	Gillet, N. Y.	Mann,	Southard,
Burk, Pa.	Gillett, Mass.	Marshall,	Southwick,
Burke, S. Dak.	Graff,	Martin,	Sperry,
Burkett,	Graham,	Mercer,	Steele,
Burton,	Greene, Mass.	Metcalf,	Stevens, Minn.
Butler, Pa.	Grow,	Miller,	Stewart, N. J.
Calderhead,	Hamilton,	Mondell,	Sulloway,
Cannon,	Hanbury,	Moody, N. C.	Sutherland,
Capron,	Haskins,	Moody, Oreg.	Tawney,
Cassel,	Haugen,	Morgan,	Tirrell,
Connell,	Hedge,	Morrell,	Tongue,
Conner,	Henry, Conn.	Morris,	Vreeland,
Coombs,	Hill,	Moss,	Wachter,
Cooper, Wis.	Hitt,	Mudd,	Wadsworth,
Corliss,	Holliday,	Needham,	Wanger,
Cromer,	Hopkins,	Nevin,	Warner,
Currier,	Howell,	Olmsted,	Warnock,
Cushman,	Hull,	Otjen,	Watson,
Dahle,	Irwin,	Overstreet,	Weeks,
Dalzell,	Jack,	Parker,	Woods,
Davidson,	Jenkins,	Patterson, Pa.	Young.
Deemer,	Jones, Wash.	Payne,	

NAYS—118.

Adamson,	Finley,	Lewis, Ga.	Rucker,
Allen, Ky.	Flood,	Lindsay,	Russell,
Ball, Tex.	Foster, Ill.	Little,	Scarborough,
Bankhead,	Fox,	Livingston,	Selby,
Bell,	Gaines, Tenn.	Lloyd,	Shackleford,
Bellamy,	Gilbert,	McAndrews,	Shafroth,
Benton,	Glass,	McClellan,	Shallenberger,
Billmeyer,	Glenn,	McCulloch,	Sheppard,
Brantley,	Goldfogle,	McLain,	Sims,
Breazeale,	Gooch,	McRae,	Slayden,
Broussard,	Gordon,	Maddox,	Snodgrass,
Brundidge,	Green, Pa.	Mahoney,	Snook,
Burgess,	Griggs,	Maynard,	Sparkman,
Burleson,	Hay,	Mickey,	Spight,
Burnett,	Henry, Miss.	Miers, Ind.	Stark,
Caldwell,	Henry, Tex.	Moon,	Stephens, Tex.
Candler,	Hooker,	Mutchler,	Sulzer,
Clark,	Howard,	Naphen,	Swann,
Clayton,	Jett,	Norton,	Swanson,
Cochran,	Johnson,	Padgett,	Taylor, Ala.
Cooney,	Jones, Va.	Pierce,	Thomas, N. C.
Cowherd,	Kern,	Pugsley,	Trimble,
Crowley,	Kitchin, Claude	Randell, Tex.	Underwood,
Davey, La.	Kitchin, Wm. W.	Ransdell, La.	Vandiver,
Davis, Fla.	Kluttz,	Rhea,	Wheeler,
De Armond,	Lamb,	Richardson, Ala.	Williams, Ill.
Dinsmore,	Lanham,	Richardson, Tenn.	Williams, Miss.
Dougherty,	Latimer,	Rixey,	Wooten.
Elliott,	Lester,	Robb,	
Feely,	Lever,	Robinson, Ind.	

ANSWERED "PRESENT"—10.

Barney,	Kehoe,	Showalter,	Tate,
Bowie,	Meyer, La.	Smith, Ky.	Zenor.
Griffith,	Ryan,		

NOT VOTING—71.

Alexander,	Dayton,	Kleberg,	Small,
Bartlett,	Driscoll,	Knox,	Smith, H. C.
Belmont,	Eddy,	Lassiter,	Smith, S. W.
Bingham,	Edwards,	Long,	Stewart, N. Y.
Boutell,	Fitzgerald,	McDermott,	Storm,
Brick,	Fleming,	Mahon,	Talbert,
Bristow,	Foerderer,	Minor,	Tayler, Ohio
Bromwell,	Fordney,	Neville,	Thayer,
Burleigh,	Fowler,	Newlands,	Thomas, Iowa
Butler, Mo.	Grosvenor,	Palmer,	Thompson,
Cassingham,	Heatwole,	Patterson, Tenn.	Tompkins, N. Y.
Conry,	Hemenway,	Pou,	Tompkins, Ohio
Cooper, Tex.	Hepburn,	Reid,	Van Voorhis,
Cousins,	Hildebrant,	Robertson, La.	White,
Creamer,	Hughes,	Robinson, Nebr.	Wiley.
Crumpacker,	Jackson, Kans.	Rumple,	Wilson,
Curtis,	Jackson, Md.	Ruppert,	Wright.
Darragh,	Kahn,	Sherman,	

So the resolution was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Mr. BROMWELL with Mr. CASSINGHAM.

Mr. DAYTON with Mr. MEYER of Louisiana.

Mr. KAHN with Mr. BELMONT.

Until further notice:

Mr. HEATWOLE with Mr. TATE.

Mr. FOSTER of Vermont with Mr. POU.

Mr. BARNEY with Mr. THOMPSON.

Mr. FORDNEY with Mr. KLEBERG.

Mr. LONG with Mr. NEWLANDS.

Mr. GROSVENOR with Mr. KEHOE.

Mr. RUMPLE with Mr. ROBINSON of Nebraska.

Mr. TAYLER of Ohio with Mr. BOWIE.

Mr. BURLEIGH with Mr. GRIFFITH.

For this day:

Mr. CURTIS with Mr. REID.

Mr. HENRY C. SMITH with Mr. EDWARDS.

Mr. BOUTELL with Mr. CREAMER.

Mr. STORM with Mr. PATTERSON of Tennessee.

Mr. MINOR with Mr. LASSITER.

Mr. ALEXANDER with Mr. RYAN.

Mr. THOMAS of Iowa with Mr. SMITH of Kentucky.

Mr. VAN VOORHIS with Mr. SMALL.

Mr. WRIGHT with Mr. WILSON.

Mr. JACKSON of Maryland with Mr. WHITE.

Mr. HEMENWAY with Mr. COOPER of Texas.

Mr. FOWLER with Mr. KLUTTZ.

Mr. COUSINS with Mr. JACKSON of Kansas.

Mr. BRICK with Mr. CONRY.

Mr. HILDEBRANT with Mr. MCDERMOTT.

Mr. HUGHES with Mr. ROBERTSON of Louisiana.

Mr. KNOX with Mr. NEVILLE.

Mr. MAHON with Mr. TALBERT.

Mr. SAMUEL W. SMITH with Mr. THAYER.

On this bill:

Mr. SHOWALTER with Mr. WILEY.

Mr. DRISCOLL with Mr. FLEMING.

Mr. HEPBURN with Mr. BARTLETT.

Mr. CRUMPACKER with Mr. ZENOR.

Mr. BINGHAM with Mr. FITZGERALD.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the preamble as amended will be considered as adopted.

There was no objection.

On motion of Mr. OLMSTED, a motion to reconsider the vote by which the resolution was adopted was laid on the table.

PRODUCTION AND CONSUMPTION OF COFFEE.

The SPEAKER laid before the House the following message from the President of the United States; which was read by the Clerk:

To the Senate and House of Representatives:

I transmit herewith a report from the Secretary of State, with accompanying papers, relative to the proceedings of the International Congress for the Study of the Production and Consumption of Coffee, which, in pursuance of a resolution adopted by the Second International Conference of American States, was in session at the city of New York from October 1 to October 31, 1902, investigating the causes which are producing the crisis through which that industry is passing.

THEODORE ROOSEVELT.

WHITE HOUSE, *December 10, 1902.*

The message and accompanying documents were ordered to be printed and referred to the Committee on Foreign Affairs.

COMMITTEE RESIGNATIONS AND APPOINTMENTS.

The SPEAKER laid before the House the following communications; which were read by the Clerk:

WASHINGTON, D. C., *December 3, 1902.*

Hon. D. B. HENDERSON,
Speaker of the House of Representatives, Washington, D. C.

SIR: I most respectfully tender to you my resignation as a member of the Committee on Irrigation of Arid Lands.

Yours, very truly,

JOHN J. JENKINS,
Member of Congress, Tenth District, Wisconsin.

WASHINGTON, D. C., *December 3, 1902.*

Hon. D. B. HENDERSON,
Speaker of the House of Representatives, Washington, D. C.

SIR: I most respectfully tender to you my resignation as a member of the Committee on the District of Columbia.

Yours, very respectfully,

JOHN J. JENKINS,
Member of Congress, Tenth District, Wisconsin.

The SPEAKER. Without objection, this gentleman will be excused from service on these committees.

There was no objection.

The SPEAKER also laid before the House the following:

WASHINGTON, D. C., *December 1, 1902.*

Hon. D. B. HENDERSON,
Speaker of the House of Representatives, Washington, D. C.

DEAR SIR: I hereby tender my resignation as a member of the Committee on Coinage, Weights, and Measures; also as a member of the Select Committee on Industrial Arts and Expositions.

Very respectfully, yours,

E. J. HILL.

The SPEAKER. With the approval of the House, these resignations will be accepted.

There was no objection.

The SPEAKER also laid before the House the following:

WASHINGTON, D. C., *December 11, 1902.*

Hon. D. B. HENDERSON,
Speaker of the House of Representatives, Washington, D. C.

DEAR SIR: I most respectfully tender to you my resignation as member of the Committee on Elections No. 2.

Truly, yours, SAMUEL L. POWERS.

The SPEAKER. The House approving, this resignation will be accepted.

There was no objection.

The SPEAKER also announced the following committee appointments; which were read by the Clerk:

In accordance with the law (28 Stat. L., p. 768) the Speaker announces the appointment of the following temporary Committee on Accounts: Mr. HILDEBRANDT of Ohio, Mr. HUGHES of West Virginia, and Mr. BARTLETT of Georgia.

Also the following committee assignments:

District of Columbia: Mr. POWERS of Massachusetts.

Coinage, Weights, and Measures: Mr. BRANDEGEE of Connecticut.

Select Committee on Industrial Arts and Expositions: Mr. GARDNER of Massachusetts.

Elections No. 2: Mr. DWIGHT of New York.

Expenditures in the War Department: Mr. BRANDEGEE of Connecticut.

Irrigation of Arid Lands: Mr. DWIGHT of New York.

Irrigation of Arid Lands: Mr. BRANDEGEE of Connecticut.

Committee on the Census: Mr. GARDNER of Massachusetts.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BOUTELL, for the remainder of this week, on account of sickness.

To Mr. ROBERTSON of Louisiana, for fifteen days, on account of important business.

VERONA HARRIMAN.

By unanimous consent, on motion of Mr. SULLOWAY, leave was granted to withdraw from the files of the House, without leaving copies, the papers in the case of Verona Harriman, Fifty-fifth Congress, no adverse report having been made thereon.

THOMAS O'CONNOR.

By unanimous consent, on motion of Mr. RIXEY, leave was granted to withdraw from the files of the House, without leaving copies, the papers in the case of Thomas O'Connor, Fifty-seventh Congress, no adverse report having been made thereon.

BAYOU VERMILION AND MERMENTAU RIVER, LOUISIANA.

By unanimous consent, on motion of Mr. BURTON, the reference of House bills 15605 and 15606, providing respectively for the construction of a lock or locks and a dam in Bayou Vermilion and the Mermentau River, in the State of Louisiana, was changed from the Committee on Interstate and Foreign Commerce to the Committee on Rivers and Harbors.

Mr. HEPBURN. Mr. Speaker, it was in connection with these two bills, the reference of which has been changed, that I desire recognition. I do not want to consent by this action to the idea that jurisdiction ordinarily in cases of this kind is lodged with the Committee on Rivers and Harbors, but in this instance, this stream being now in process of improvement and being the subject of appropriation, I think it would be better that the subject of this bill should be considered by that committee.

The SPEAKER. The Chair understands that the request just granted on the proposition of the gentleman from Ohio [Mr. BURTON] covered the two bills referred to by the gentleman.

Mr. HEPBURN. Yes, sir.

EULOGIES ON THE LATE HONS. JOHN L. SHEPPARD AND REESE C. DE GRAFFENREID.

Mr. BALL of Texas. Mr. Speaker, I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the House meet on Sunday, the 25th day of January, 1903, at 12 o'clock noon, for eulogies upon the life and character of Hons. JOHN L. SHEPPARD and REESE C. DE GRAFFENREID, deceased, late members of this House from the State of Texas.

The resolution was agreed to.

SAMUEL H. HARRISON.

Mr. BULL. Mr. Speaker, I present two privileged reports from the Committee on Accounts.

The Clerk read as follows:

House resolution 338.

Resolved, That the Clerk of the House is hereby authorized and directed to pay to the mother of Samuel H. Harrison, late an employee in the Clerk's office of the House, a sum equal to six months' pay at the rate of compensation received by him at the time of his death, and a further sum not exceeding $250 on account of expenses of his last illness and burial.

The question was taken, and the resolution was agreed to.

ADDITIONAL FOLDERS IN FOLDING ROOM OF THE HOUSE.

Mr. BULL. Also the following:

The Clerk read as follows:

House resolution No. 341.

Resolved, That the Doorkeeper of the House be, and is hereby, authorized to employ eight additional folders in the folding room of the House, at a compensation at the rate of $75 each per month, to be paid out of the contingent fund of the House, during the present session of Congress.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

The Committee on Accounts, to whom was referred House resolution No. 341, authorizing the employment of eight additional folders during the present session of Congress, have had the same under consideration and recommend its adoption.

This resolution is recommended by the Doorkeeper of the House and the superintendent of the folding room in the following communication, and as it is customary to make provision for eight additional folders during the short session of Congress your committee ask that the resolution be agreed to.

OFFICE OF DOORKEEPER,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., December 3, 1902.

Hon. MELVILLE BULL, M. C.,
Chairman of Committee on Accounts, House of Representatives.

DEAR SIR: I transmit herewith a letter from the foreman of the folding room, containing certain recommendations relative to additional folders in his department. I most heartily approve of these recommendations, and it is my earnest hope that these recommendations will meet with the approval of your honorable committee, and that the relief asked for will be granted.

Very truly, yours,

F. B. LYON,
Doorkeeper House of Representatives.

WASHINGTON, D. C., *December 3, 1902.*

Hon. F. B. LYON,
Doorkeeper House of Representatives.

DEAR SIR: I respectfully request that an additional force of 8 folders be employed in the folding room during the present session of Congress, for reasons herein explained.

During the present year the work of this department has increased very much. Many thousands of new publications have been received, and many reports that in former years were complete in one or two volumes, are now issued in sets containing as many as 13 volumes. This not only means the folding of many thousands of books over and above the amounts formerly received, but it also means the tying and arranging of said volumes into sets, which is slow, laborious work, and must be done with much care. This work alone takes from our regular work of folding documents three or four men most of the time.

After the amount appropriated for the folding of speeches became exhausted we were compelled to put our regular force folding speeches, many thousands having been received after the said fund was exhausted—in fact, we were folding speeches up to October 30 of the present year. This delayed the folding of documents, so that at the present time we have a large amount of unfolded documents on hand, and it is for the folding of these documents and many more yet to be received that this extra force is requested, and I hope it will receive favorable consideration.

Respectfully,

J. MARTIN MCKAY,
Foreman Folding Room.

The question was taken, and the resolution was agreed to.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 3 o'clock and 55 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, submitting a report of leases of Government property—to the Committee on Ways and Means, and ordered to be printed.

A letter frem the Secretary of the Treasury, transmitting a report relating to accommodations for the post-office building at Yonkers, N. Y.—to the Committee on Public Buildings and Grounds, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Jacob A. Fite against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of J. S. Ladd, administrator of estate of Thornton G. Ladd, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of E. L. Brien, administrator of estate of John W. Taylor, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of the Interior, submitting draft of a bill providing for the sale of timber in forest reserves and the renting or leasing of lands therein—to the Committee on the Public Lands, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French

spoliation claims relating to the schooner *Conrad*, John Osborn, master, against The United States—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Olivia K. Williams, administratrix of estate of Seaborn J. Brown, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Isaiah Standifer against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of T. J., D. H., and Pauline Chamberlain against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of J. Menkus, administrator of estate of Sarah Marr, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of H. S. Watters, administrator of estate of Claiborn C. Watters, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and of law in the French spoliation cases relating to the schooner *Hope*, Ephraim Hutchins, master, against The United States—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Joseph C. Cooper against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Emily C. Richmond and Samuel P. Gibbons against The United States—to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. WADSWORTH, from the Committee on Agriculture, to which was referred the bill of the House (H. R. 15922) making an appropriation for the suppression and to prevent the spread of contagious and infectious diseases of live stock, and for other purposes, reported the same without amendment, accompanied by a report (No. 2819); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JENKINS, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 13791) to quitclaim all interest of the United States of America in and to square 1131, in the city of Washington, D. C., to Sidney Bieber, reported the same with amendments, accompanied by a report (No. 2820); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 5678) providing for record of deeds and other conveyances and instruments of writing in Indian Territory, and for other purposes, reported the same with amendment, accompanied by a report (No. 2821); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 5659) granting an increase of pension to Melinda Heard, reported the same without amendment, accompanied by a report (No. 2803); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4957) granting an increase of pension to Stiles L. Acee, reported the same without amendment, accompanied by a report (No. 2804); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3180) granting a pension to Emma L. Ferrier, reported the same without amendment, accompanied by a report (No. 2805); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15588) granting an increase of pension to Samnel S. Smith, reported the same with amendment, accompanied by a report (No. 2806); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15300) granting a pension to Delania Preston, widow of William G. Preston, reported the same with amendments, accompanied by a report (No. 2807); which said bill and report were referred to the Private Calendar.

Mr. WILEY, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11197) granting a pension to the minor children of Daniel J. Reedy, reported the same with amendments, accompanied by a report (No. 2808); which said bill and report were referred to the Private Calendar.

Mr. BROMWELL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14258) granting a pension to Fletcher Duling, reported the same with amendment, accompanied by a report (No. 2809); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11093) granting a pension to Nannie M. Kimberly, reported the same with amendments, accompanied by a report (No. 2810); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13719) granting a pension to Nancy McGuire, reported the same with amendment, accompanied by a report (No. 2811); which said bill and report were referred to the Private Calendar.

Mr. BROMWELL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12575) granting an increase of pension to Edward A. Branham, of Alexandria County, Va., reported the same with amendments, accompanied by a report (No. 2812); which said bill and report were referred to the Private Calendar.

Mr. BALL of Delaware, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13705) granting an increase of pension to Mary Ann Garrison, reported the same with amendment, accompanied by a report (No. 2813); which said bill and report were referred to the Private Calendar.

Mr. BOREING, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4925) granting a pension to Joel Thomason, reported the same with amendment, accompanied by a report (No. 2814); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 1617) granting a pension to Margaret A. Osborne, reported the same with amendments, accompanied by a report (No. 2815); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 1637) granting an increase of pension to John A. Spalding, reported the same with amendments, accompanied by a report (No. 2816); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14913) granting an increase of pension to Ann M. Morrison, reported the same with amendments, accompanied by a report (No. 2817); which said bill and report were referred to the Private Calendar.

Mr. SELBY, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15421) granting an increase of pension to Elizabeth Palmer, reported the same with amendments, accompanied by a report (No. 2818); which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 13893) granting a pension to Ella F. Shundrew—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15827) granting a pension to Grace Ashton Negley—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14600) granting an increase of pension to Anthony Walich—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. FOSTER of Vermont: A bill (H. R. 15917) to amend section 18 of Public Act No. 146—to the Committee on Public Buildings and Grounds.

By Mr. MAYNARD: A bill (H. R. 15918) to grant the free use of the United States mails to the officers of the National Guard of the States and Territories of the United States for the official business of their respective commands—to the Committee on the Post-Office and Post-Roads.

By Mr. DALZELL: A bill (H. R. 15919) to incorporate the Lake Erie and Ohio River Ship Canal Company, to define the powers thereof, and to facilitate interstate commerce—to the Committee on Railways and Canals.

By Mr. TAWNEY: A bill (H. R. 15920) to provide for an exhibit of the progress of education and experimentation in agriculture and mechanic arts at the Louisiana Purchase Exposition in 1904—to the Committee on Industrial Arts and Expositions.

By Mr. MORRIS: A bill (H. R. 15921) to provide for the construction of a bridge across Rainy River in Minnesota—to the Committee on Interstate and Foreign Commerce.

By Mr. WADSWORTH, from the Committee on Agriculture: A bill (H. R. 15922) making an appropriation for the suppression and to prevent the spread of contagious and infectious diseases of live stock, and for other purposes—to the Union Calendar.

By Mr. DE ARMOND: A bill (H. R. 15923) for the protection of the people against monopoly, and for other purposes—to the Committee on the Judiciary.

By Mr. SHERMAN: A bill (H. R. 15924) constituting Utica, N. Y., a port of delivery—to the Committee on Ways and Means.

By Mr. BULL: A bill (H. R. 15925) providing for the promotion of warrant officers in the Navy—to the Committee on Naval Affairs.

By Mr. SLAYDEN: A bill (H. R. 15926) to establish a permanent military camp ground in the vicinty of Fort Sam Houston, Department of Texas, in the State of Texas—to the Committee on Military Affairs.

By Mr. SULZER: A bill (H. R. 15927) to more effectually regulate interstate and foreign commerce—to the Committee on the Judiciary.

By Mr. PUGSLEY: A bill (H. R. 15928) to render the currency more elastic and responsive to the financial and commercial requirements of the country—to the Committee on Banking and Currency.

By Mr. KNOX: A bill (H. R. 15973) to pay in part judgments rendered under an act of the legislative assembly of the Territory of Hawaii for property destroyed in suppressing the bubonic plague in said Territory in 1899 and 1900, and authorizing the Territory of Hawaii to issue bonds for the payment of the remaining claims—to the Committee on Claims.

By Mr. BOREING: A bill (H. R. 15974) to increase the pay of the male laborers of the Government Printing Office—to the Committee on Printing.

By Mr. SHAFROTH: A joint resolution (H. J. Res. 226) authorizing the President to propose to Great Britain and Germany to submit their claims against Venezuela to arbitration, and to guarantee the payment of the awards that may be made—to the Committee on Foreign Affairs.

By Mr. BULL: A joint resolution (H. J. Res. 227) to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of December, 1902, on the 18th day of said month—to the Committee on Accounts.

By Mr. PIERCE: A joint resolution (H. J. Res. 228) suspending the operation of all laws imposing a tariff on anthracite and bituminous coal—to the Committee on Ways and Means.

By Mr. CLAUDE KITCHIN: A joint resolution (H. J. Res. 229) directing the Secretary of War to furnish to the State of North Carolina copies of certain records in his office—to the Committee on Military Affairs.

By Mr. FINLEY: A joint resolution (H. J. Res. 230) directing the Secretary of War to furnish to the State of South Carolina copies of certain records in his office—to the Committee on Military Affairs.

By Mr. BABCOCK: A concurrent resolution (H. C. Res. 64) authorizing the Commissioners of the District of Columbia to employ until June 30, 1903, and when necessary thereafter, a medical sanitary inspector—to the Committee on the District of Columbia.

By Mr. BULL: A resolution (H. Res. 348) to pay to James A. Abbott, father of J. Laurean Abbott, deceased, lately employed as a telephone operator in the House, a sum equal to six months' pay and funeral expenses—to the Committee on Accounts.

By Mr. BRANDEGEE: A resolution (H. Res. 349) providing for a meeting of the House on Sunday, January 25, 1903, for eulogies on the life, character, and services of Hon. CHARLES ADDISON RUSSELL.

By Mr. WACHTER: A bill (H. Res. 350) authorizing the chairman of the Committee on Enrolled Bills to appoint two additional clerks to said committee—to the Committee on Accounts.

By Mr. BALL of Texas: A resolution (H. Res. 351) that the House meet on Sunday, the 25th day of January, A. D. 1903, at 12 o'clock noon, for eulogies upon the life, character, and services of the Hon. JOHN L. SHEPPARD and Hon. R. C. DE GRAFFENREID, deceased, late members of the House from the State of Texas.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ADAMS: A bill (H. R. 15929) to correct the military record of Phillip Graham—to the Committee on Military Affairs.

By Mr. ACHESON: A bill (H. R. 15930) granting a pension to Henry H. Wilson—to the Committee on Invalid Pensions.

By Mr. BURTON: A bill (H. R. 15931) granting an increase of pension to John Wilson—to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 15932) granting an increase of Pension to John Brasch—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15933) granting an increase of pension to Adam Gosage—to the Committee on Invalid Pensions.

By Mr. CROWLEY: A bill (H. R. 15934) to remove the charge of desertion against Jacob Higgins—to the Committee on Military Affairs.

Also, a bill (H. R. 15935) granting an increase of pension to John W. Brown—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 15936) granting an increase of pension to Josiah E. Keyes—to the Committee on Invalid Pensions.

By Mr. CORLISS: A bill (H. R. 15937) granting a pension to William E. Martin—to the Committee on Invalid Pensions.

By Mr. CONNER: A bill (H. R. 15938) granting a pension to George W. Day—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 15939) granting a pension to Mary D. Duval—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 15940) granting an increase of pension to George E. Pierson—to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 15941) to correct the military record of Abraham Bennett—to the Committee on Military Affairs.

By Mr. GORDON: A bill (H. R. 15942) granting an increase of pension to Aurelia A. Daniels—to the Committee on Pensions.

Also, a bill (H. R. 15943) granting an increase of pension to Rebecca Donahoo—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15944) granting an increase of pension to Joseph N. Carter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15945) granting an increase of pension to David Deardourff—to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 15946) authorizing the Secretary of War to grant an honorable discharge to John P. Barry, late first lieutenant Battery C, Pennsylvania Artillery—to the Committee on Military Affairs.

Also, a bill (H. R. 15947) granting an increase of pension to Charles J. Barr—to the Committee on Invalid Pensions.

By Mr. HEPBURN: A bill (H. R. 15948) granting an increase of pension to French F. Nelson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15949) granting a pension to Ezra Shanks—to the Committee on Invalid Pensions.

By Mr. IRWIN: A bill (H. R. 15950) granting an increase of pension to Emily Catlin—to the Committee on Invalid Pensions.

By Mr. KEHOE: A bill (H. R. 15951) granting an increase of pension to James M. Howe—to the Committee on Pensions.

By Mr. LANDIS: A bill (H. R. 15952) granting an increase of pension to Robert O'Neel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15953) granting an increase of pension to George S. P. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15954) granting an increase of pension to William H. Dooley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15955) granting an increase of pension to John L. Dallas—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15956) to correct the military record of George Pile—to the Committee on Military Affairs.

By Mr. MAYNARD: A bill (H. R. 15957) granting a pension to Thomas Allen—to the Committee on Pensions.

By Mr. MEYER of Louisiana: A bill (H. R. 15958) for the relief of H. Gibbes Morgan and other coowners of Cat Island, in the Gulf of Mexico—to the Committee on Private Land Claims.

By Mr. MANN: A bill (H. R. 15959) for the relief of M. C. Kerth—to the Committee on War Claims.

By Mr. MOON: A bill (H. R. 15960) for the relief of Thomas Smith—to the Committee on War Claims.

By Mr. PRINCE: A bill (H. R. 15961) granting an increase of pension to Jane Welch—to the Committee on Invalid Pensions.

By Mr. PUGSLEY: A bill (H. R. 15962) granting a pension to Catharine T. R. Mathews—to the Committee on Pensions.

By Mr. RUCKER: A bill (H. R. 15963) granting a pension to Mary A. Ward—to the Committee on Pensions.

By Mr. SCHIRM: A bill (H. R. 15964) granting an increase of pension to Michael Murphy—to the Committee on Invalid Pensions.

By Mr. WATSON: A bill (H. R. 15965) granting an increase of pension to Jeremy Walker—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 15966) granting a pension to Sarah A. Lee, widow of Nathan H. Lee—to the Committee on Invalid Pensions.

By Mr. ZENOR: A bill (H. R. 15967) granting a pension to Hiram G. McLemore—to the Committee on Invalid Pensions.

By Mr. BLAKENEY: A bill (H. R. 15968) granting an increase of pension to Isaac F. Clayton—to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 15969) granting an increase of pension to William E. Haskins—to the Commitee on Invalid Pensions.

Also, a bill (H. R. 15970) granting a pension to Gertrude Merrill—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 15971) granting a pension to Cama Young—to the Committee on Invalid Pensions.

Also, a bill (H. R. 15972) to remove the charge of desertion from Elijah Rankins—to the Committee on Military Affairs.

By Mr. WATSON: A bill (H. R. 15975) granting an increase of pension to Simeon T. Yancy—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 15976) granting an increase of pension to John Kelley, second—to the Committee on Invalid Pensions.

By Mr. JACK: A bill (H. R. 15977) granting an increase of pension to George S. Campbell—to the Committee on Invalid Pensions.

Also a bill (H. R. 15978) granting an increase of pension to Capt. William C. Gordon—to the Committee on Invalid Pensions.

Also a bill (H. R. 15979) granting an increase of pension to William Miller—to the Committee on Invalid Pensions.

By Mr. LITTAUER: A bill (H. R. 15980) granting an increase of pension to Harry C. Thorne—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Papers to accompany House bill relating to the correction of the military record of Abraham B. Barnett—to the Committee on Military Affairs.

By Mr. ALLEN of Maine: Petition of C. E. Barbour and 26 others, master mariners in the American merchant marine, for the passage of House bill 163, granting pensions to certain officers and enlisted men of the Life-Saving Service and to their widows and minor children—to the Committee on Invalid Pensions.

By Mr. BURKETT: Resolution of George A. Custer Post, Grand Army of the Republic, of Omaha, Nebr., in reference to public lands—to the Committee on the Public Lands.

By Mr. DWIGHT: Papers to accompany House bill granting an increase of pension to George E. Pierson—to the Committee on Invalid Pensions.

By Mr. EVANS: Paper to accompany House bill 15819, granting an increase of pension to John W. Smith—to the Committee on Invalid Pensions.

By Mr. FINLEY: Petition of certain citizens of the State of South Carolina, in the matter of documents and records in the War Department—to the Committee on Military Affairs.

By Mr. FLYNN: Papers to accompany House bill 15826, relating to the claim of Jacob Crew—to the Committee on Claims.

By Mr. GIBSON: Petition of heir of John Caldwell, deceased, for reference of war claim to the Court of Claims—to the Committee on War Claims.

Also, petitions of George W. Bean and Francis M. Webb for bounty money for services in the war of the rebellion—to the Committee on Claims.

By Mr. GORDON: Resolution of Lima Presbytery, synod of Ohio, favoring a laboratory in the Department of Justice—to the Committee on the Judiciary.

Also, petition of citizens of Loramie, Shelby County, Ohio, in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

Also, papers to accompany House bill 10187, granting a pension to John Workman—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting an increase of pension to Rebecca Donahoo—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting an increase of pension to Aurelia A. Daniels—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting an increase of pension to David Deardourff—to the Committee on Invalid Pensions.

By Mr. HOWELL: Petition of citizens of Monmouth County, N. J., in favor of a breakwater at the entrance of New York Harbor—to the Committee on Rivers and Harbors.

By Mr. IRWIN: Papers to accompany House bill granting an increase of pension to Emily Catlin—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of Woman's Missionary Society of the Ainslie Street Presbyterian Church, of Brooklyn, N. Y., favoring antipolygamy amendment to the Constitution—to the Committee on the Judiciary.

By Mr. MADDOX: Petition of Thomas H. Williams, praying reference of war claim to the Court of Claims—to the Committee on War Claims.

By Mr. MAYNARD: Papers to accompany House bill 15819, granting a pension to Thomas Allen—to the Committee on Pensions.

By Mr. MIERS of Indiana: Paper to accompany House bill 6163, granting an increase of pension to Joshua Parsons—to the Committee on Invalid Pensions.

By Mr. MOON: Papers relating to the claim of Thomas Smith, of Whiteside, Tenn.—to the Committee on War Claims.

Also, paper to accompany House bill 1255, relating to the claim of William M. White—to the Committee on Military Affairs.

By Mr. OVERSTREET: Petition of James L. Condon and other citizens of Indiana, urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. SHERMAN: Petition of citizens of Utica, N. Y., asking for the removal of the tariff on certain glass products—to the Committee on Ways and Means.

By Mr. WILLIAMS of Illinois: Papers to accompany House bill granting a pension to Cuma Young—to the Committee on Invalid Pensions.

Also, papers to accompany House bill to correct the military record of Elijah Rankin—to the Committee on Military Affairs.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December 12, 1902.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read, corrected, and approved.

BILLS LAID ON THE TABLE.

The SPEAKER. The Chair lays before the House sundry bills from the Committee on War Claims which have passed the House and are in a condition to be laid on the table. That request is made by the chairman, and without objection, the bills will lie on the table, and the Clerk will read them by title.

The Clerk read as follows:

H. R. 2944. A bill for the relief of Frances King;
H. R. 1591. A bill for the relief of Charles H. Adams;
H. R. 1010. A bill for the relief of Larrabee & Allen;
H. R. 5896. A bill for the relief of the Allaire Works, of New York;
H. R. 4443. A bill for the relief of Kate Reaney Zeiss, administratrix of William B. Reaney, deceased, who was surviving partner of the firm of Reaney, Son & Archbold;
H. R. 2217. A bill for the relief of the legal representatives of Pusey, Jones & Co.;
H. R. 7165. A bill for the relief of Poole & Hunt;
H. R. 4002. A bill for the relief of the Atlantic Works, of Boston, Mass.;
H. R. 3737. A bill for the relief of the executors of James B. Eads, deceased;
H. R. 4635. A bill for the relief of the estate of James Brown, deceased;
H. R. 6004. A bill for the relief of Hannah E. Boardman, administratrix;
H. R. 3505. A bill for the relief of the legal representatives of Tomlinson & Hartupee & Co.;
H. R. 10447. A bill for the relief of the Winchester and Potomac Railroad Company;
H. R. 4442. A bill for the relief of Sarah E. E. Perine;
H. R. 6323. A bill for the relief of Everett B. Curtis, administrator of John J. Curtis, deceased;
H. R. 7445. A bill for the relief of the legal representatives of Neafie & Levy; and
H. R. 11565. A bill for the relief of George B. Caldwell, administrator of Hamlin Caldwell, deceased.

The SPEAKER. The Chair also lays before the House the bill (H. R. 10065) to provide for the acquiring of rights of way by